

## NOTICE OF INTENT

### Department of Health Board of Nursing

Emergency Action (LAC 46:XLVII.3411)

Notice is hereby given in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and through the authority granted in R.S. 37:918, that the Louisiana State Board of Nursing (LSBN) is amending Chapter 34, §3411.H. The insertion of the word *available* would allow the LSBN an opportunity to fulfill the request in a timely manner, but without guaranteeing the issue will be heard at the next board hearing panel meeting. At present, LSBN's hearings schedule is such that we are scheduling cases 2-3 months in advance. The additional word will provide clarity for the nurses in our state related to an emergency action meeting.

#### LAC 46

### PROFESSIONAL AND OCCUPATIONAL STANDAQRDS

#### Part XLVII. Nurses: Practical Nurses and Registered Nurses

#### Chapter 34. Disciplinary Proceedings; Alternative to Disciplinary Proceedings

#### §3411. Formal Hearing

A. - G.3.e. ...

H. Emergency Action. If the board finds that public health, safety, and welfare requires emergency action and a finding to that effect is incorporated in its order, summary suspension of a license may be ordered by the executive director or designee pending proceedings for revocation or other action. Such proceedings shall be promptly instituted and determined at the next available regularly scheduled board meeting.

I. - K.2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:918, R.S. 37:921, R.S. 37:922 and R.S. 37:923.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Nursing, LR 7:75 (March 1981), amended by the Department of Health and Hospitals, Board of Nursing, LR 24:1293 (July 1998), LR 31:1586 (July 2005), amended by the Department of Health, Board of Nursing, LR 43:

#### Family Impact Statement

The proposed additions and/or changes to the rules of the board, Louisiana State Board of Nursing should not have any known or foreseeable impact on any family as defined by R.S. 49.972(D) or on family formation, stability and autonomy. Specifically, there should be no known or foreseeable effect on:

1. the stability of the family;
2. the authority and rights of parents regarding the education and supervision of their children;
3. the functioning of the family;
4. a family's earnings and budget;
5. the behavior and personal responsibility of the children; or
6. the family's ability or that of the local government to perform the function as contained in the proposed Rule.

#### Poverty Impact Statement

In compliance with Act 854 of the 2012 Regular Session of the Louisiana Legislature, the poverty impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will not have an impact on child, individual, or family poverty in relation to individual or community asset development as described on R.S. 49:973.

#### Provider Impact Statement

In compliance with House Concurrent Resolution (HCR) 170 of the 2014 Regular Session of the Louisiana Legislature, the provider impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will not have an impact on the staffing level requirements or qualifications required to provide the same level of service, no direct or indirect cost to the provider to provide the same level of service, and will have no impact on the provider's ability to provide the same level of service as described in HCR 170.

#### Public Comments

Interested persons may submit written comments on the proposed Rule to Karen C. Lyon, 17373 Perkins Road, Baton Rouge, LA 70810, or by facsimile to (225) 755-7585. All comments must be submitted by 5 p.m. on or before August 10, 2017.

Dr. Karen C. Lyon, E.D.  
Executive Director

### FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Emergency Action

#### I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

Other than the publication fee associated with the proposed rule change, which is estimated to cost the Louisiana State Board of Nursing (LSBN) \$230, it is not anticipated that state or local governmental units will incur any other costs or savings. Chapter 34, Section 3411 (H) states that "If the board finds that the public health, safety, and welfare requires emergency action and a finding to that effect is incorporated in its order, summary suspension of a license may be ordered by the executive director or designee pending proceedings for revocation or other action. Such proceedings shall be promptly instituted and determined at the next regularly scheduled board meeting." The proposed rule change adds that this proceeding shall be "determined at the next available regularly scheduled board meeting." The insertion of the word "available" allows the LSBN an opportunity to fulfill the request in a timely manner, but without guaranteeing the issue will be heard at the next board meeting. Currently, LSBN hearings scheduled are 2-3 months in advance.

#### II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rule change will not affect state or local government revenue collections.

#### III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The rule change may impact a licensed nurse whose license is under summary suspension given that it may result in an additional delay of approximately 2-3 months for a nurse to

receive a determination on the status of their license. During this delay, the nurse's license will remain suspended, resulting in an inability to practice.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule change may affect the employment of a licensed nurse whose license is under summary suspension as explained in section III above.

Dr. Karen C. Lyon  
Executive Director  
1707#032

Evan Brasseaux  
Staff Director  
Legislative Fiscal Office

**NOTICE OF INTENT**

**Department of Health  
Bureau of Health Services Financing**

**Adult Day Health Care—Licensing Standards  
(LAC 48:I.Chapter 42)**

The Department of Health, Bureau of Health Services Financing proposes to amend LAC 48:I.Chapter 42 in the Medical Assistance Program as authorized by R.S. 36:254 and R.S. 40:2120.41-2120.46, and pursuant to Title XIX of the Social Security Act. This proposed Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

The Department of Health and Hospitals, Bureau of Health Services Financing amended the provisions governing the licensing standards for adult day health care (ADHC) centers to revise and clarify the staffing and transportation requirements (*Louisiana Register*, Volume 38, Number 9).

The department subsequently promulgated a Rule which repealed the licensing provisions governing ADHC services as these provisions were revised and repromulgated in Part I, Chapter 50 of Title 48 of the *Louisiana Administrative Code* (*Louisiana Register*, Volume 39, Number 10).

The department has now determined that it is necessary to amend the provisions governing ADHC in order to: 1) adopt provisions which will allow licensed ADHC providers certified as programs of all-inclusive care for the elderly (PACE) to achieve accreditation status for licensure; 2) allow for the inactivation of the provider's license under certain circumstances and specific provisions for cessation of business; and 3) clarify the requirements for checking the direct service worker registry and obtaining criminal history checks.

**Title 48**

**PUBLIC HEALTH—GENERAL**

**Part I. General Administration**

**Subpart 3. Licensing and Certification**

**Chapter 42. Adult Day Health Care**

**Subchapter A. General Provisions**

**§4201. Introduction**

A. ...

B. An ADHC center shall have a written statement describing its philosophy as well as long-term and short-term goals. The ADHC center program statement shall include goals that:

1. - 6. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and 40:2120.41-46.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:2177 (October 2008), repromulgated LR 34:2622 (December 2008), amended by the Department of Health, Bureau of Health Services Financing, LR 43:

**§4203. Definitions**

\* \* \*

*Accreditation*—process by which an ADHC that is owned and operated by a PACE organization with an executed program agreement with CMS/LDH is deemed to meet ADHC licensing requirements.

\* \* \*

*Cessation of Business*—center is non-operational and/or has stopped offering or providing services to the community.

*Change of Ownership (CHOW)*—a change in the legal center/entity responsible for the operation of the ADHC center.

\* \* \*

*Complaints*—allegations of noncompliance with regulations filed by someone other than the center.

*Department*—the Louisiana Department of Health (LDH) and its representatives.

\* \* \*

*Employee*—person who performs a job or task for compensation, such as wages or a salary. An employed person may be one who is contracted or one who is hired for a staff position.

*Full-Time Equivalent*—40 hours of employment per week or the number of hours the center is open per week, whichever is less.

\* \* \*

*Governing Body*—the person or group of persons that assumes full legal responsibility for determining, implementing and monitoring policies governing the ADHC's total operation, and who is responsible for the day-to-day management of the ADHC program, and shall also insure that all services provided are consistent with accepted standards of practice.

*Individualized Service Plan (ISP)*—an individualized written program of action for each participant's care and services to be provided by the ADHC center based upon an assessment of the participant.

\* \* \*

*Line of Credit*—a credit arrangement with a federally insured, licensed lending institution which is established to assure that the center has available funds as needed to continue the operations of the agency and the provision of services to participants. The line of credit shall be issued to the licensed entity and shall be specific to the geographic location shown on the license. For purposes of ADHC licensure, the line of credit shall not be a loan, credit card or a bank balance.

\* \* \*

*Non-Operational*—the ADHC center is not open for business operations on designated days and hours as stated on the licensing application and business location signage.

\* \* \*

*Program of All-Inclusive Care for the Elderly (PACE)*—an organization that provides prepaid, capitated, comprehensive health care services.

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