

NOTICE OF INTENT

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

**Facility Need Review
Hospital Off-Site Campuses
Emergency Services
(LAC 48:I.12501, 12503 and 12522)**

The Department of Health, Bureau of Health Services Financing proposes to amend LAC 48:I.12501, 12503 and adopt §12522 in the Medical Assistance Program as authorized by R.S. 36:254 and R.S. 40:2116. 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 promulgated a Rule which amended the provisions governing the Facility Need Review (FNR) Program in order to remove outpatient abortion facilities from the FNR process (*Louisiana Register*, Volume 42, Number 1).

The department has now determined that it is necessary to amend the provisions governing the Facility Need Review Program in order to establish an FNR process for off-site campuses of licensed hospitals that provide emergency services.

Title 48

**PUBLIC HEALTH—GENERAL
Part I. General Administration
Subpart 5. Health Planning**

Chapter 125. Facility Need Review

Subchapter A. General Provisions

§12501. Definitions

A. ...

Emergency Services—services performed within a hospital licensed by the Department of Health pursuant to R.S. 40:2101, et seq, or at an off-site campus as defined in LAC 48:I.9303, and which include, but are not limited to, those services necessary to screen, evaluate and stabilize an emergency medical condition. Emergency services provided at a licensed off-site campus shall be operated and integrated as part of the services of the licensed hospital.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2116.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 21:806 (August 1995), amended LR 25:1250 (July 1999), LR 28:2190 (October 2002), LR 30:1023 (May 2004), LR 32:845 (May 2006), LR 34:2611 (December 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 35:2437 (November 2009), LR 36:323 (February 2010), LR 38:1961 (August 2012), LR 41:135 (January 2015), LR

41:2636 (December 2015), LR 42:61 (January 2016), amended by the Department of Health, Bureau of Health Services Financing, LR 42:

§12503. General Information

A. - B. ...

C. The department will also conduct an FNR for the following provider types to determine if there is a need to license additional units, providers or facilities:

1. - 3. ...

4. hospice providers or inpatient hospice facilities;

5. pediatric day health care facilities; and

6. off-site campuses of a licensed hospital, as defined in LAC 48:I.9303, which provide emergency services.

D. - H.2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2116.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 21:808 (August 1995), amended LR 28:2190 (October 2002), LR 30:1483 (July 2004), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 34:2612 (December 2008), amended LR 35:2437 (November 2009), LR 36:323 (February 2010), LR 38:1593 (July

2012), LR 38:1961 (August 2012), LR 41:136 (January 2015), LR 42:61 (January 2016), amended by the Department of Health, Bureau of Health Services Financing, LR 42:

Subchapter B. Determination of Bed, Unit, Facility or Agency Need

§12522. Hospitals - Licensed Off-Site Campuses Emergency Services

A. No hospital off-site campus providing emergency services shall be licensed to operate unless the FNR Program has granted an approval for the issuance of an off-site campus license to provide emergency services.

1. Once the FNR Program approval is granted, an off-site campus is eligible to be licensed (as part of the hospital) by the department to provide emergency services, subject to meeting all of the requirements for licensure.

B. The service area for a proposed or existing hospital off-site campus providing emergency services shall be within a 35-mile radius from the hospital's main campus location.

C. The hospital off-site campus providing emergency services shall not have a greater number of emergency department (ED) beds than the number of licensed inpatient beds at the hospital's main campus facility.

D. If the hospital's main campus facility has more than one off-site campus that provides emergency services, the total

number of (ED) beds at all off-site campuses providing emergency services shall not be greater than the number of licensed inpatient beds at the hospital's main campus facility.

E. Determination of Need/Approval

1. The department will review the application to determine if there is a need for an additional off-site campus providing emergency services in the hospital's main campus' 35-mile radius service area.

2. The department shall grant FNR approval only if the FNR application, the data contained in the application, and other evidence effectively establishes the probability of serious, adverse consequences to individuals' ability to access emergency services if the off-site campus providing emergency services is not allowed to be licensed.

3. In reviewing the application, the department may consider, but is not limited to, evidence showing:

a. the number of other licensed facilities providing emergency services in the main campus' service area; and

b. individuals' inability to access emergency services.

4. The burden is on the applicant to provide data and evidence to effectively establish the probability of serious, adverse consequences to individuals' ability to access

emergency services if the facility is not allowed to be licensed. The department shall not grant any FNR approvals if the applicant fails to provide such data and evidence.

F. Applications for approvals of off-site campuses providing emergency services submitted under these provisions are bound to the description in the application with regard to the type of services proposed, as well as to the site and location as defined in the application. FNR approval of facilities shall expire if these aspects of the application are altered or changed.

G. FNR approvals for licensed providers are non-transferrable and are limited to the location and the name of the original licensee.

1. An off-site campus providing emergency services undergoing a change of location in the hospital's main campus' service area shall submit a written attestation of the change of location and the department shall re-issue the FNR approval with the name and new location.

2. An off-site campus providing emergency services undergoing a change of location outside of the hospital's main campus service area shall submit a new FNR application and fee, and undergo the FNR approval process.

3. An off-site campus providing emergency services undergoing a change of ownership shall submit a new application

to the department's FNR Program. FNR approval for the new owner shall be granted upon submission of the new application and proof of the change of ownership, which must show the seller's or transferor's intent to relinquish the FNR approval.

4. FNR approval of an off-site campus providing emergency services shall automatically expire if the facility is moved or transferred to another party, entity or location without application to and approval by the FNR program.

H. Off-site campuses providing emergency services shall have 12 months from the date of FNR approval to obtain final architectural plan approval and shall have 24 months from the date of FNR approval within which to become licensed.

1. A one-time 90-day extension may be granted, at the discretion of the department, when delays are caused by circumstances beyond the control of the applicant.

a. Inappropriate zoning is not a basis for extension.

2. Failure to meet the timeframes in this Paragraph H shall result in an automatic expiration of the FNR approval.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2116.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 42:

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed Rule on the family has been considered. It is anticipated that this proposed Rule will have no impact on family functioning, stability and autonomy as described in R.S. 49:972.

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 have no impact on child, individual, or family poverty in relation to individual or community asset development as described in R.S. 49:973.

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 have no 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.

Interested persons may submit written comments to Cecile Castello, Health Standards Section, P.O. Box 3767, Baton Rouge, LA 70821 or by email to MedicaidPolicy@la.gov. Ms. Castello is responsible for responding to inquiries regarding this proposed

Rule. A public hearing on this proposed Rule is scheduled for August 25, 2016 at 9:30 a.m. in Room 118, Bienville Building, 628 North Fourth Street, Baton Rouge, LA. At that time all interested persons will be afforded an opportunity to submit data, views or arguments either orally or in writing. The deadline for receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

Rebekah E. Gee MD, MPH

Secretary

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Rule Title: Facility Need Review
Hospital Off-Site Campuses
Emergency Services

Date Rule Takes Effect: October 20, 2016

SUMMARY

In accordance with Section 953 of Title 49 of the Louisiana Revised Statutes, there is hereby submitted a fiscal and economic impact statement on the rule proposed for adoption, repeal or amendment. The following summary statements, based on the attached worksheets, will be published in the Louisiana Register with the proposed agency rule.

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (SUMMARY)

It is anticipated that implementation of this proposed rule will have no programmatic fiscal impact to the state other than the cost of promulgation for FY 16-17 since workload associated with any new reviews are anticipated to be absorbed with existing staff and resources. It is anticipated that \$972 (SGF) will be expended in FY 16-17 for the state's administrative expense for promulgation of this proposed rule and the final rule.

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

It is anticipated that the implementation of this proposed rule will not affect revenue collections.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)

This proposed Rule amends the provisions governing the Facility Need Review (FNR) Program in order to establish an FNR process for off-site campuses of licensed hospitals that provide emergency services. It is anticipated that implementation of this proposed rule will have no economic costs or benefits to hospitals for FY 16-17, FY 17-18 and FY 18-19.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This rule has no known effect on competition and employment.

Cecile Castello
Signature of Agency Head
or Designee

Gregg V. Clark
Legislative Fiscal Officer
or Designee

Cecile Castello,
Health Standards Section Director
Typed name and Title of
Agency Head or Designee

7/6/2016
Date of Signature

Bhaskar Joshi
DHH/BHSF Budget Head

07/06/16
Date of Signature

FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES

The following information is required in order to assist the Legislative Fiscal Office in its review of the fiscal and economic impact statement and to assist the appropriate legislative oversight subcommittee in its deliberations on the proposed rule.

- A. Provide a brief summary of the content of the rule (if proposed for adoption or repeal) or a brief summary of the change in the rule (if proposed for amendment). Attach a copy of the notice of intent and a copy of the rule proposed for initial adoption or repeal (or, in the case of a rule change, copies of both the current and proposed rules with amended portions indicated).

This proposed Rule amends the provisions governing the FNR Program in order to establish an FNR process for off-site campuses of licensed hospitals that provide emergency services.

- B. Summarize the circumstances that require this action. If the action is required by federal regulations, attach a copy of the applicable regulation.

The Department of Health and Hospitals, Bureau of Health Services Financing promulgated a Rule which amended the provisions governing the Facility Need Review (FNR) Program in order to remove outpatient abortion facilities from the FNR process (Louisiana Register, Volume 42, Number 1).

The department has now determined that it is necessary to amend the provisions governing the Facility Need Review Program in order to establish an FNR process for off-site campuses of licensed hospitals that provide emergency services.

- C. Compliance with Act 11 of the 1986 First Extraordinary Session.

- (1) Will the proposed rule change result in any increase in the expenditure of funds? If so, specify amount and source of funding.

No. It is anticipated that implementation of this proposed rule will have no programmatic fiscal impact to the state other than the cost of promulgation for FY 16-17 since workload associated with any new reviews are anticipated to be absorbed with existing staff and resources. In FY 16-17, \$972 is included for the state's administrative expense for promulgation of this proposed rule and the final rule.

- (2) If the answer to (1) above is yes, has the Legislature specifically appropriated the funds necessary for the associated expenditure increase?

- (a) _____ If yes, attach documentation.
(b) _____ If no, provide justification as to why this rule change should be published at this time.

FISCAL AND ECONOMIC IMPACT STATEMENT
WORKSHEET

I. A. COST OR SAVINGS TO STATE AGENCIES RESULTING FROM THE ACTION PROPOSED

1. What is the anticipated increase or (decrease) in cost to implement the proposed action?

COST	FY 16-17	FY 17-18	FY 18-19
PERSONAL SERVICES			
OPERATING EXPENSES	\$972	\$0	\$0
PROFESSIONAL SERVICES			
OTHER CHARGES			
REPAIR & CONSTR.			
POSITIONS (#)			
TOTAL	\$972	\$0	\$0

2. Provide a narrative explanation of the costs or savings shown in "A.1.", including the increase or reduction in workload or additional paperwork (number of new forms, additional documentation, etc.) anticipated as a result of the implementation of the proposed action. Describe all data, assumptions, and methods used in calculating these costs.

In FY 16-17, \$972 will be spent for the state's administrative expense for promulgation of this proposed rule and the final rule.

3. Sources of funding for implementing the proposed rule or rule change.

Source	FY 16-17	FY 17-18	FY 18-19
STATE GENERAL FUND	\$972	\$0	\$0
SELF-GENERATED			
FEDERAL FUND	\$0	\$0	\$0
OTHER (Specify)			
Total	\$972	\$0	\$0

4. Does your agency currently have sufficient funds to implement the proposed action? If not, how and when do you anticipate obtaining such funds?

Yes, sufficient funds are available to implement this rule.

B. COST OR SAVINGS TO LOCAL GOVERNMENTAL UNITS RESULTING FROM THIS PROPOSED ACTION.

1. Provide an estimate of the anticipated impact of the proposed action on local governmental units, including adjustment in workload and paperwork requirements. Describe all data, assumptions and methods used in calculating this impact.

This proposed rule has no known impact on local governmental units.

FISCAL AND ECONOMIC IMPACT STATEMENT
WORKSHEET

2. Indicate the sources of funding of the local governmental unit that will be affected by these costs or savings.

There is no known impact on the sources of local governmental unit funding.

II. EFFECT ON REVENUE COLLECTIONS OF STATE AND LOCAL GOVERNMENTAL UNITS

- A. What increase or (decrease) in revenues can be expected from the proposed action?

REVENUE INCREASE/DECREASE	FY 16-17	FY 17-18	FY 18-19
STATE GENERAL FUND			
AGENCY SELF-GENERATED			
RESTRICTED FUNDS*			
FEDERAL FUNDS			
LOCAL FUNDS			
Total			

**Specify the particular fund being impacted*

- B. Provide a narrative explanation of each increase or decrease in revenue shown in "A". Describe all data, assumptions, and methods used in calculating these increases or decreases.

III. COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS

- A. What persons or non-governmental groups would be directly affected by the proposed action? For each, provide an estimate and a narrative description of any effects on costs, including workload adjustments and additional paperwork (number of new forms, additional documentation, etc.)

This proposed Rule amends the provisions governing the FNR Program in order to establish an FNR process for off-site campuses of licensed hospitals that provide emergency services.

- B. Also, provide an estimate of any revenue impact resulting from this rule or rule change to these groups.

It is anticipated that implementation of this proposed rule will not have economic costs or benefits to hospitals for FY 16-17, FY 17-18 and FY 18-19.

IV. EFFECTS ON COMPETITION AND EMPLOYMENT

Identify and provide estimates of the impact of the proposed action on competition and employment in the public and private sectors. Include a summary of any data, assumptions and methods used in making these estimates.

This rule has no known effect on competition and employment.