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Department of Health
Bureau of Health Services Financing

Substantive Changes and Public Hearing Notification
Hospital Licensing Standards
Obstetrical and Newborn Services
(LAC 48:I.9505, 9509 and 9513)

In accordance with the provisions of the Administrative Procedures Act, R.S. 49:950 et seq., the Department of Health and Hospitals, Bureau of Health Services Financing published a Notice of Intent in the March 20, 2016 edition of the *Louisiana Register* (LR 42:473-480) to amend LAC 48:I.9505-9515. This Notice of Intent proposed to amend the provisions governing the hospital licensing standards in order to align these provisions with current standards of practice and staffing guidelines.

The department conducted a public hearing on this Notice of Intent on April 28, 2016 to solicit comments and testimony on the proposed Rule. As a result of the comments received, the department proposes to amend the provisions in §9505, §9509, and §9513 of the proposed Rule.

Taken together, all of these revisions will closely align the proposed Rule with the department's original intent and the concerns brought forth during the comment period for the Notice of Intent as originally published. No fiscal or economic impact will result from the amendments proposed in this notice.

Title 48
PUBLIC HEALTH—GENERAL
Part I. General Administration
Subpart 3. Licensing and Certification

Chapter 95. Hospitals

Subchapter S. Obstetrical and Newborn Services (Optional)

§9505. General Provisions

A. This Subchapter S requires that the level of care on the neonatal intensive care unit shall match or exceed the level of obstetrical care for each level of obstetric service, except for free standing children's hospitals. All hospitals with existing obstetrical and neonatal services shall be in compliance with this Subchapter S within one year of the promulgation date of this Rule. All new providers of obstetrical and neonatal services shall be required to be in compliance with this Subchapter S immediately upon promulgation.

Note: For facilities that change the level of care and services of the facility's NICU unit, either decreasing or increasing the level provided, the facility shall submit an attestation of this change to the department's Health Standards Section (HSS) in writing and on the appropriate state neonatal services Medicaid attestation form. Such notice shall be submitted to HSS within 90 days of the facility's change in NICU level provided. For facilities that change the level of care and services of the facility's obstetric unit, by either decreasing or increasing

the level provided, the facility shall submit written notice of this change to HSS within 90 days of such change.

B. - F. ...

G. The hospital shall have data collection and retrieval capabilities in use, and shall cooperate and report the requested data to the appropriate supervisory agencies to review.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2100-2115.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 29:2427 (November 2003), amended LR 33:284 (February 2007), amended by the Department of Health, Bureau of Health Services Financing, LR 42:

§9509. Obstetrical Unit Functions

A. - A.1.f. ...

g. The hospital shall have a program in place to address the needs of the family, including parent-sibling-neonate visitation.

h. The hospital shall have a written transfer agreement with another hospital that has an approved appropriate higher level of care.

i. - l. Repealed.

A.2. - B.1.e ...

2. Personnel Requirements

a. The chief of obstetric services shall be a board-certified obstetrician or a board eligible candidate for certification in obstetrics. This obstetrician has the responsibility of coordinating perinatal services with the neonatologist in charge of the neonatal intensive care unit (NICU).

b. - c. ...

d. A board-certified or board eligible OB-GYN physician shall be available 24 hours a day.

Exception: For those hospitals whose staff OB-GYN physician(s) do not meet the provisions of §9509.B(2)d, such physician(s) may be grandfathered as satisfying the requirement of §9509.B(2)d when the hospital has documented evidence that the OB-GYN physician(s) was granted clinical staff privileges by the hospital prior to the effective date of this Rule. This exception applies only to the physician at the licensed hospital location and is not transferrable.

B.2.e. - C.1.d. ...

e. Participation is required in a statewide quality collaborative and database selected by the Medicaid Quality Committee, Maternity subcommittee, with a focus on quality of maternity care. Proof of such participation will be available from the LDH website.

C.1.f. - C.2.g. ...

h. A lactation consultant or counselor shall be on staff to assist breastfeeding mothers as needed.

i. The lactation consultant or counselor shall be certified by a nationally recognized board on breastfeeding.

i. A nutritionist and a social worker shall be on staff and available for the care of these patients as needed.

D. - E.2.a. ...

b. Participation is required in the department's designated statewide quality collaborative program.

Note: The hospital shall acquire and maintain documented proof of participation.

c. Repealed.

Note: Repealed.

E.3. - E.3.c.iv. ...

d. Obstetrical Medical Subspecialties

Table 1 - Obstetrical Medical Subspecialties				
Each higher level Obstetrical unit shall meet the requirements of each lower level Obstetrical unit.				
Level I	Level II	Level III	Level III Regional	Level IV
Board Certified or Eligible OB/GYN or Family Practice Physician	Board Certified/Eligible OB/GYN §9509.B(2)d -See Exception	Board Certified/Eligible Anesthesiologist	Board Certified/Eligible Anesthesiologist	Board Certified/Eligible Anesthesiologist
Anesthesia services	Anesthesia services*	Board Certified OB/GYN	Board Certified OB/GYN	Board Certified OB/GYN
Radiology services	Clinical Pathologist ¹	Board Certified/Board Eligible MFM ^{1**}	Board Certified/Board Eligible MFM ^{**}	Board Certified MFM ^{**}
Ultrasonography	Clinical Radiologist	Clinical Pathologist ¹	Clinical Pathologist ¹	Clinical Pathologist ¹
Laboratory services	MFM ^{1**}	Clinical Radiologist ¹	Clinical Radiologist ¹	Clinical Radiologist ¹

Electronic fetal monitoring	Lactation Consultant/Counselor See §9509.B(h.i)	Critical Care ¹	Critical Care ¹	Critical Care ¹
		General Surgery ¹	General Surgery ¹	General Surgery ¹
		Infectious Disease ¹	Infectious Disease ¹	Infectious Disease ¹
		Urology ¹	Urology ¹	Urology ¹
		Hematology ¹	Hematology ¹	Hematology ¹
		Cardiology ¹	Cardiology ¹	Cardiology ¹
		Nephrology ¹	Nephrology ¹	Nephrology ¹
		Neurology ¹	Neurology ¹	Neurology ¹
		Neonatology ¹	Neonatology ¹	Neonatology ¹
		Pulmonology ¹	Pulmonology ¹	Pulmonology ¹
		Lactation Consultant/Counselor	Lactation Consultant/Counselor	Lactation Consultant/Counselor
		Nutritionist	Nutritionist	Nutritionist
		Social Worker	Social Worker	Social Worker
				Cardiothoracic Surgery ¹
				Gastroenterology ¹
				Endocrinology ¹
¹ physician shall be available in person on site as needed by the facility.				Neurosurgery ¹
*Anesthesia services shall be available 24 hours a day to provide labor analgesia and surgical anesthesia. A board-certified/eligible anesthesiologist with specialized training or experience in obstetric anesthesia shall be available 24 hours a day for consultation.				
**Licensed MFM shall be available for consultation onsite, by telephone, or by telemedicine, as needed.				

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2100-2115.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 29:2427 (November 2003), amended LR 33:284 (February 2007, amended by the Department of Health, Bureau of Health Services Financing, LR 42:

§9513. Neonatal Unit Functions

A. - A.1.f. ...

g. Repealed.

A.2. - C.2.f.i. ...

3. Equipment Requirements

a. This unit shall have the following support equipment, in sufficient number, immediately available as needed in the hospital that includes but is not limited to,

i. advanced imaging with interpretation on an urgent basis (computed tomography, ultrasound (including cranial ultrasound), MRI, echocardiography and electroencephalography);

Note: Level III facilities shall have an arrangement to have such testing interpreted by someone qualified in neonatal diagnostic testing; and

C.3.a.ii. - D.2. ...

a. For medical sub-specialty requirements refer to Table 1 - Neonatal Medical Subspecialties and Transport Requirements.

Exception: Those hospitals which do not have a member of the medical staff who is a board certified/eligible pediatric anesthesiologist but whose anesthesiologist has been granted staff privileges to perform pediatric anesthesiology, such physician(s) may be grandfathered as satisfying the requirement of §9513(2)a when the hospital has documented evidence that the anesthesiologist was granted clinical staff privileges by the

hospital prior to the effective date of this Rule. This exception applies only to such physician at the licensed hospital location and is not transferrable.

D.2.b. - E.2.a. ...

b. Neonatal Medical Subspecialties and Transport Requirements

Table 1 - Neonatal Medical Subspecialties and Transport Requirements				
Text denoted with asterisks (*) indicates physician shall be available in person on site as needed by the facility. Each higher level NICU unit shall meet the requirements of each lower level NICU unit.				
Level I (Well Nursery)	Level II	Level III	Level IIIS	Level IV
Board Certified/Eligible Pediatric or Family Practice Physician	Board Certified/Eligible Pediatric or Family Practice Physician	Pediatric Cardiology ¹	Pediatric Surgery ⁴	Pediatric Surgery ⁴
	Board Certified Neonatologist	Ophthalmology ²	Pediatric Anesthesiology ⁵ §9513(2)a- See Exception	Pediatric Anesthesiology ⁵
	Social Worker		Neonatal Transport	Neonatal Transport
	Occupational Therapist	Social Worker Ratio 1:30	Ophthalmology ^{2*}	Ophthalmology ^{2*}
	Physical Therapist	OT or PT/neonatal expertise	Pediatric Cardiology*	Pediatric Cardiology*
	Respiratory Therapists	RD/training in perinatal nutrition	Pediatric Gastroenterology *	Pediatric Cardiothoracic Surgery*
	Registered dietician/nutritionist	RT/training in neonate ventilation	Pediatric Infectious Disease*	Pediatric Endocrinology*
	Laboratory Technicians	Neonatal feeding/swallowing - SLP/ST	Pediatric Nephrology*	Pediatric Gastroenterology *
	Radiology Technicians		Pediatric Neurology ^{3*}	Pediatric Genetics*
			Pediatric Neurosurgery*	Pediatric Hematology-Oncology*
			Pediatric Orthopedic Surgery*	Pediatric Infectious Disease*
			Pediatric Otolaryngology ^{6*}	Pediatric Nephrology*
			Pediatric Pulmonology*	Pediatric Neurology ^{3*}
				Pediatric Neurosurgery
				Pediatric Orthopedic Surgery
				Pediatric Otolaryngology ^{7*}
				Pediatric Pulmonology*
				Pediatric Radiology*
				Pediatric Urologic Surgery*

			Transport note:	
¹ There shall be at least one board certified or board eligible pediatric cardiologist as a member of medical staff. For Level III facilities, staff using telemedicine shall be continuously available.			Transport shall be in accordance with national standards as published by the American Academy of Pediatrics' Section on neonatal and pediatric transport and in accordance with applicable Louisiana statutes.	
² There shall be at least one board certified or board eligible ophthalmologist with sufficient knowledge and experience in retinopathy or prematurity as a member of the medical staff. An organized program for monitoring retinotherapy of prematurity shall be readily available in Level III and for treatment and follow-up of these patients in Level IIIS and IV facilities.				
³ There shall be at least one board certified or board eligible pediatric neurologist as a member of medical staff.				
⁴ For pediatric surgery, the expectation is that there is a board certified or eligible pediatric surgeon who is continuously available to operate at that facility.				
⁵ There shall be at least one board certified or board eligible pediatric anesthesiologist as a member of the medical staff.				
⁶ Board eligible or certified in Otolaryngology; special interest in Pediatric Otolaryngology or completion of Pediatric Otolaryngology Fellowship.				

Board eligible or certified in Otolaryngology; completion of Pediatric Otolaryngology Fellowship.				
For specialties listed above staff shall be board eligible or board certified in their respective fields with the exception of otolaryngology as this field has not yet pursued certification.				

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2100-2115.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 29:2429 (November 2003), amended LR 33:286 (February 2007), amended by the Department of Health, Bureau of Health Services Financing, LR 42:

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 these substantive amendments to the proposed Rule. A public hearing on these substantive changes to the proposed Rule is scheduled for Thursday, September 29, 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.

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Secretary