



LNHA Regulatory Update: June 2021

Emergency Rule

Programs and Services Amendments Due to the Coronavirus Disease 2019 Public Health Emergency

In response to the ongoing public health emergency, the Louisiana Department of Health (LDH) has continued the provisions of the previously Emergency Rules. The provisions include the \$12 add-on to the per diem rate to nursing facilities, leave of absence days for hospital stays and post-eligibility review of asset verification for aged, blind and disabled applicants. The extension will continue to be in effect for the maximum period allowed under the Act or the duration of the COVID-19 public health declaration, whichever comes first.

A full text of the rules can be found [here](#) on page 12 of the PDF.

Final Rule

Mandatory Tuberculosis (TB) Testing (LAC 51:II.503 and 505)

In March 2021, LDH published a Notice of Intent regarding mandatory tuberculosis testing. The proposed rule followed the Centers for Disease Control and Prevention (CDC) guidance, as well as data monitored by LDH-OPH's Tuberculosis (TB) Control Program. In short, the proposed rule eliminated the current requirement for annual TB testing for most employees, students or volunteers at any medical or 24-hour residential facility requiring licensing by the Louisiana Department of Health (LDH), or at any LDH-OPH parish health unit or an LDH-OPH out-patient health care facility. In lieu of annual TB testing for these persons, the rule requires that certain educational materials be provided to these persons annually.

The proposed rule adds paragraph (D) to the section which reads:

D. Annually, but no sooner than 6 months since last receiving tuberculosis educational information (more fully described at the end of this sentence) or symptom screening, all employees, students in the healthcare professions, or volunteers at any medical or 24-hour residential facility requiring licensing by LDH or at any hospital or nursing home (as defined in Parts XIX and XX of the Sanitary Code, respectively, herein, and including intermediate care facilities for the developmentally disabled) requiring licensing by the LDH or at any LDH-OPH parish health unit or and LDH-OPH out-patient health care facility shall receive, at a minimum, educational information explaining the health concerns, signs, symptoms, and risks of tuberculosis.

Since its introduction, the proposed has been properly implemented through the administrative process. As such, the rule became effective on June 20, 2021.

A full text of the rule can be found [here](#) on page 44 of the PDF.

Notice of Intent

Nursing Facilities – Licensing Standards (LAC 48:I.9769 and 9771)

Acts 18 and 30 of the 2020 Second Extraordinary Session of the Louisiana Legislature directed LDH to promulgate rules that provide minimum standards in relation to the requirements for licensed nursing facilities to allow visitation of members of the clergy and immediate family members of other designated persons during a public health emergency (PHE). In accordance with those Acts, LDH proposes to amend the provisions governing the licensing of nursing facilities in order to allow for such visitation.

The proposed rule:

- Defines "clergy" and "immediate family"

- Declares the regulation to be preempted by any federal law, regulation, requirement, order or guideline issued by any federal agency during a PHE that requires a nursing facility to restrict resident visitation in a manner that is more restrictive than the rules
- The rule may also be preempted by an order issued by any Louisiana state health officer (SHO) or any executive order or proclamation issued by the governor during a PHE.
- The proposed rule requires facilities to have a written policy and procedure addressing visitation by clergy and immediate family. The proposed rule also lists the minimum requirements for the written policy and the areas which shall be addressed.

The full text of the proposed rule can be found [here](#) on page 76 of the PDF. Written comments may be submitted to Tasheka Dukes at P.O. Box 3767, Baton Rouge, LA 70821 and must be submitted by July 30, 2021.

Questions

If you have comments or concerns regarding this update, contact LNHA Legal and Policy Director Wes Hataway at whataway@lnha.org.