



LNHA Regulatory Update: September 2021

Final Rule

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

A final rule has been published which provides minimum standards for nursing facility visitation by members of the clergy and immediate family members or other designated persons during a public health emergency (PHE). The final rule does the following:

- Defines “clergy” and “immediate family”
- Declares the regulation to be preempted by 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
- States the rule may also be preempted by an order issued by any Louisiana state health official or any executive order or proclamation issued by the governor during a PHE
- Requires facilities to have a written policy and procedure addressing visitation by clergy and immediate family. The rule also lists the minimum requirements for the written policy and the areas which shall be addressed.

A full text of the rule can be found [here](#) on page 104 of the PDF.

Facility Need Review – Relocation of Nursing Facility Beds (LAC 48:I.12529)

A final rule has been published which gives the Louisiana Department of Health (LDH) the ability to approve a temporary relocation/transfer of Facility Need Review (FNR) approvals to another licensed, certified and operational nursing facility outside of the service area or parish while awaiting the completion of a replacement nursing facility building.

The final rule states:

D. In addition to Paragraphs B and C of this Section, Medicaid FNR approvals of an existing licensed and certified nursing facility that is awaiting the completion of a replacement nursing facility building, may be temporarily relocated to a licensed building that may be outside of the service area or parish of the existing FNR approved service area or parish under the following conditions.

1. The department may approve a one-time temporary relocation of a nursing facility’s Medicaid FNR approvals to another licensed building that may be outside the existing FNR approved service area or parish, provided that all of the following provisions are met:
 - a. The relocating nursing facility shall send a written request to the department’s Health Standards Section at least 30 days before the proposed temporary relocation outside the existing FNR approved service area or parish, for the department’s review and approval. This request shall include all good cause grounds for the temporary relocation of the Medicaid FNR approvals. The department will determine if approval of the temporary relocation will be granted.
 - b. The nursing facility shall not temporarily relocate to a licensed building located in a service area or parish that is greater than 100 miles from the existing licensed

service area or parish of the nursing facility.

- c. The temporarily relocating nursing facility shall maintain the same number of licensed and Medicaid FNR approved beds as prior to the relocation.
- d. All temporarily relocated Medicaid FNR approvals of the licensed and certified nursing facility are subject to compliance with all state and federal licensure/certification guidelines and procedures.
- e. The temporary location shall be in compliance with all licensing and certification standards for nursing facilities and receive a temporary nursing facility license issued by the department.
- f. The temporary license shall expire 6 months from the date of issuance and the facility shall relocate to its new replacement nursing facility building during that period. One extension of the temporary license, not to exceed 90 days, may be granted by the department for good cause shown.
- g. During the period of temporary licensure, the nursing facility shall not accept any new admissions to the facility.

A full text of the rule can be found [here](#) on page 101 of the PDF.

Questions

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