

NOTICE OF INTENT

Department of Health and Hospitals  
Office of the Secretary  
Bureau of Health Services Financing

Nursing Facility Services—Standards for Payment  
(LAC 50:II.Chapter 101)

The Department of Health and Hospitals, Bureau of Health Services Financing proposes to adopt the following rule in the Medicaid Program as authorized by R.S. 46:153 and pursuant to Title XIX of the Social Security Act. This proposed rule is in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

The Bureau of Health Services Financing proposes to adopt the following provisions for inclusion in the rule entitled "Nursing Facility Services Standards for Payment" and adopted on January 20, 1996 (*Louisiana Register*, Volume 22 Number 1). These provisions were received as recommendations for inclusion in the rule cited above but were inadvertently omitted or inaccurately incorporated.

**Title 50**

**PUBLIC HEALTH - MEDICAL ASSISTANCE**

**Part II. Medical Assistance Program**

**Subpart 3. Standards for Payment**

**Chapter 101. Standards for Payment for Nursing Facilities**

**Subchapter A. Abbreviations and Definitions**

**§10101. Definitions**

\* \* \*

*Assistant Director of Nursing (ADON)*—a licensed nurse responsible for providing assistance to the director of nursing (DON) in a nursing facility with a licensed bed capacity of 101 or more.

\* \* \*

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:153.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 22:34 (January 1996), amended LR 22:

**§10121. Nursing Services**

\* \* \*

C. Assistant Director of Nursing. If the director of nursing has administrative responsibilities or the nursing facility has a licensed bed capacity of 101 or more, the facility shall have a full-time assistant director of nursing (ADON). This individual shall be an RN or LPN. If the ADON is an LPN, the LPN must have two years experience in a long-term care setting. A nursing facility with a licensed bed capacity of 161 or more beds must employ an RN as assistant director of nursing.

\* \* \*

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:153.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 22:34 (January 1996), amended LR 22:

**Subchapter I. Resident Rights**

**§10161. General Provisions**

\* \* \*

M. Specific Rights

\* \* \*

2. Privacy and Confidentiality

\* \* \*

i. Access and Visitation Rights. The resident has the right and the facility must provide immediate access by any resident to the following:

\* \* \*

ix. visiting overnight outside the facility with family and friends in accordance with the facility policies, physician's orders, and Title XVIII (Medicare) and Title XIX (Medicaid) regulations without the loss of their bed. Home visit policies and procedures for arranging home visits shall be fully explained.

\* \* \*

(b). The facility must allow certified representatives of the state ombudsman to examine a resident's clinical records with the permission of the resident or the resident's legal representative and consistent with state law.

\* \* \*

Q. Freedom from Restraints and Abuse. Residents shall have the right to be free from verbal, sexual,

physical or mental abuse, corporal punishment, involuntary seclusion, and any physical and chemical restraints imposed for the purpose of discipline or convenience and not required to treat the resident's medical symptoms. Restraints may only be imposed:

\* \* \*

3. in case of an emergency, physical restraint may only be applied by a qualified licensed nurse who shall document in the medical record the circumstances requiring the necessity for the use of restraint. The physician shall be notified immediately thereafter;

\* \* \*

5. psychopharmacologic drugs may be administered only on the orders of a physician and only as part of a plan (included in the written plan of care) designed to eliminate or modify the symptoms for which the drugs are prescribed;

\* \* \*

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:153.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 22:34 (January 1996), amended LR 22:

**Subchapter J. Transfer and Discharge Procedure**  
**§10163. General Provisions**

\* \* \*

E. For health facilities the written notice as described in §10163 must include the following:

\* \* \*

4. a statement regarding appeal rights that reads, "You have the right to appeal the health facility's decision to transfer you. If you think you should not have to leave this facility, you may file a written request for a hearing postmarked within 30 days after you receive this notice. If you request a hearing, it will be held within 30 days after you receive this notice, and you will not be transferred from the facility until the hearing is held and a decision is rendered unless the facility is authorized to transfer you as described in §10163.D.1. If you wish to appeal this transfer or discharge, a form to appeal the health facility's decision and to request a hearing is attached. If you have any questions, call the Louisiana Department of Health and Hospitals at the number listed below.";

\* \* \*

F. Appeal of Transfer or Discharge

1. If the resident appeals the transfer or discharge, the nursing facility may not transfer or discharge the resident until the appeal is heard and a decision is rendered unless an emergency exists as described in §10163.D.1.

\* \* \*

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:153.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 22:34 (January 1996), amended LR 22:

Interested persons may submit written comments to Thomas D. Collins, Office of the Secretary, Bureau of Health Services Financing, Box 91030, Baton Rouge, LA 70821-9030. He is responsible for responding to inquiries regarding this proposed rule. A public hearing will be held on this matter at 9:30 a.m. Wednesday, May 22, 1996, in the DOTD Auditorium, 1201 Capitol Access Road, Baton Rouge, LA. At that time all interested parties will be afforded an opportunity to submit data views or arguments, orally or in writing. The deadline for the receipt of all comments is 4:30 p.m. on the day of the public hearing.

Bobby P. Jindal  
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT**  
**FOR ADMINISTRATIVE RULES**  
**RULE TITLE: Nursing Facility Services—Standards for Payment**

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

It is anticipated that implementation of this proposed rule will increase state costs by approximately \$500 for SFY 1996 but no costs are anticipated for SFY 1997 and for SFY 1998.

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

Implementation of this rule will increase federal revenue collections by approximately \$250 for SFY 1995-96 but no revenues are anticipated for SFY 1997 and for SFY 1998.

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

There are no estimated costs and/or economic benefits to directly affected persons or nongovernmental groups.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)**

There is no effect on competition and employment.

Thomas D. Collins  
Director  
9604#046

Richard W. England  
Assistant to the  
Legislative Fiscal Officer