



LOUISIANA DEPARTMENT OF INSURANCE

JAMES J. DONELON
COMMISSIONER

March 3, 2022

The Honorable Patrick Page Cortez
President, Louisiana State Senate
P.O. Box 94183
Baton Rouge, LA 70804

ELECTRONIC TRANSMISSION
apa.senatepresident@legis.la.gov

The Honorable Clay Schexnayder
Speaker, Louisiana House of Representatives
P.O. Box 94062
Baton Rouge, LA 70804

ELECTRONIC TRANSMISSION
apa.housespeaker@legis.la.gov

The Honorable Kirk Talbot
Chairman of the Senate Insurance Committee
P.O. Box 94183
Baton Rouge, LA 70804

ELECTRONIC TRANSMISSION
apa.s-ins@legis.la.gov

The Honorable Mike Huval
Chairman of the House Insurance Committee
P.O. Box 9'1062
Baton Rouge, LA 70804

ELECTRONIC TRANSMISSION
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RE: Summary Report - Regulation 120, Administrative and Agency Proceedings
Instituted Against a License

Dear President Cortez, Speaker Schexnayder, Senator Talbot, and Representative Huval:

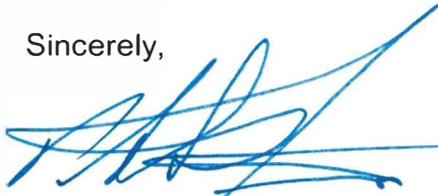
The Louisiana Department of Insurance (LDI) hereby submits the following summary report required by La. R.S. 49:968(D)(1)(b) and announces its intention to proceed to finalize Regulation 120, which was published as a Notice of Intent in the December 2021 edition of the *Louisiana Register*.

Interested persons were provided an opportunity to submit comments to the LDI on the proposed regulation. The LDI did not receive any written or oral comments by the expiration of the comment period.

Subject to legislative oversight, the LDI would like to finalize Regulation 120 and submit the regulation to the Office of the State Register for publication in the April 2022 edition of the *Louisiana Register*. A copy of the summary report will be placed on the LDI's website in accordance with La. R.S. 49:968(D)(1)(c).

If you have any questions or need any additional information, please contact me at (225) 342-6704, or electronically at Philip.Dominique@ldi.la.gov.

Sincerely,



Philip Dominique
Staff Attorney
Louisiana Department of Insurance

Enclosure: Notice of Intent for Regulation 120, Administrative and Agency Proceedings Instituted Against a License

population of individuals with developmental/intellectual disabilities being served by the provider;

2. the total direct and indirect effect on the cost to the providers to provide the same level of service is anticipated to be minimal due to the low incidence rates for these conditions. The goal of testing newborns is to identify positive cases early in life and institute treatment as soon as possible; thus, more costly interventions later in life to babies who are not tested and are later found to exhibit symptoms of this disease are averted. The incidence for SMA is 1 per 10,000 births. Louisiana would expect to see 4-5 cases per year. The incidence for MPS I is 1 in 54,000 births and Louisiana would expect to see 1 case per year. The incidence of Pompe Disease is 1 in 28,000 births and Louisiana would expect to see about 2-3 cases per year; and

3. there is no anticipated impact on the overall effect on the ability of the provider to provide the same level of service.

Public Comments

Interested persons may submit written comments on the proposed Rule. Such comments must be received no later than Tuesday, January 25, 2022 and should be addressed to Amy Zapata, MPH, Louisiana Department of Health, Office of Public Health, Bureau of Family Health, 1450 Poydras Street, Room 2013, New Orleans, LA 70112.

Public Hearing

Interested persons may submit a written request to conduct a public hearing by U.S. mail to the Office of the Secretary ATTN: LDH Rulemaking Coordinator, Post Office Box 629, Baton Rouge, LA 70821-0629; however, such request must be received no later than Monday, January 10, 2022. If the criteria set forth in R.S. 49:953(A)(2)(a) are satisfied, LDH will conduct a public hearing at 9:00AM on Tuesday, January 25, 2022 in Room 173 of the Bienville Building, which is located at 628 North Fourth Street, Baton Rouge, LA. To confirm whether or not a public hearing will be held, interested persons should first call Allen Enger at (225) 342-1342 after Monday, January 10, 2022. If a public hearing is to be held, all interested persons are invited to attend and present data, views, comments, or arguments, orally or in writing. In the event of a hearing, parking is available to the public in the Galvez Parking Garage which is located between North Sixth and North Fifth/North and Main Streets (cater-corner from the Bienville Building). Validated parking for the Galvez Garage may be available to public hearing attendees when the parking ticket is presented to the Bienville Building's front security desk.

Dr. Courtney N. Phillips
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

RULE TITLE: Newborn Heel Stick Screening

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

There are no implementation costs or savings to local government.

The estimated costs to state government are expected to be \$729,105 for FY22, \$1,589,417 for FY23, and \$1,759,788 for FY24. The cost of publication in the Louisiana Register is expected to be approximately \$609.

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

There is no revenue impact on local governments.

Regarding state government, The Office of Public Health (OPH) is negotiating with the Louisiana Medicaid to reimburse OPH on the cost of the screening. At this time, the agency is unable to provide the exact dollar amount of the anticipated revenue increase. However, it is anticipated that the revenue will be equal or close to the expenditures.

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

The benefit of this rule to affected persons is the reduction in the risk of mortality and cost of treatment associated with these conditions.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The LDH Office of Public Health is the only entity in the state with the resources to provide this service. There is no estimated effect on competition or employment.

Kim Hood, JD
Assistant Secretary
2112#046

Alan M. Boxberger
Deputy Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Insurance
Office of the Commissioner**

Regulation 120—Administrative and Agency
Proceedings Instituted Against a License
(LAC 37:XIII.Chapter 181)

The Department of Insurance, pursuant to the authority of the Louisiana Insurance Code, R.S. 22:1 et seq., and in accordance with the Administrative Procedure Act, R.S. 49:950 et seq., hereby gives notice of its intent to promulgate Regulation 120—Administrative and Agency Proceedings Instituted Against a License. Regulation 120 establishes three types of notice requirements applicable to administrative and agency proceedings instituted against a license, including (1) notice of wrongful conduct, (2) notice of regulatory action, and (3) notice of summary suspension. Regulation 120 also prescribes the time delays for each of the respective notices sent to a licensee. Lastly, Regulation 120 provides a mechanism for requesting a stay, and it further addresses related procedures governing administrative actions against a license in accordance with R.S. 22:2191, et seq.

**Title 37
INSURANCE**

Part XIII. Regulations

**Chapter 181. Regulation Number 120—Administrative
and Agency Proceedings Instituted
Against a License**

§18101. Authority

A. This regulation is promulgated on behalf of the Department of Insurance by the Commissioner of Insurance pursuant to the authority granted under Title 22.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:2, 22:11, 22:18, 22:2191, et seq., and the Administrative Procedure Act, R.S. 49:950, et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 48:

§18103. Purpose

A. The purpose of this regulation is to establish procedures for governing the institution of administrative and agency proceedings resulting in administrative action with respect to a license in accordance with R.S. 22:2191, et seq.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:2, 22:11, 22:18, 22:2191, et seq., and the Administrative Procedure Act, R.S. 49:950, et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 48:

§18105. Scope and Applicability

A. Regulation 120 sets forth procedures and time delays that govern the institution of administrative and agency proceedings resulting in administrative action instituted against any licensee.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:2, 22:11, 22:18, 22:2191, et seq., and the Administrative Procedure Act, R.S. 49:950, et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 48:

§18107. Severability

A. The provisions of this Subpart are severable. If any provision or item of this Subpart, or application thereof, is held invalid, such invalidity shall not affect other provisions, items, or applications of this Subpart which are to be given effect without the invalid provision, item, or application of the Subpart.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:2, 22:11, 22:18, 22:2191, et seq., and the Administrative Procedure Act, R.S. 49:950, et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 30:2834 (December 2004), amended LR 48:

§18109. Definitions

A. Strictly for purposes of Regulation 120, the following terms are defined as follows.

License—any and all authorizations, certificates of authority, licenses, registrations, or other written instruments, acknowledgements, or statutory decrees, establishing that a person or entity is authorized to conduct the business of insurance in accordance with Title 22.

Licensee—all persons and entities issued a “license” by the Department of Insurance or otherwise authorized by statute to conduct the business of insurance in this state. Additionally, the term “licensee,” as used in this regulation, includes approved unauthorized insurers, as defined in Chapter 2 of the Louisiana Insurance Code.

Administrative Proceedings—proceedings in an administrative tribunal adjudicated by an administrative law judge and conducted in accordance with Chapter 12 of the Louisiana Insurance Code, R.S. 22:2191, et seq. and the Administrative Procedure Act, R.S. 49:950, et seq.

Agency Proceedings—proceedings instituted or conducted by the Commissioner of Insurance.

Commissioner—the Commissioner of Insurance, his deputy, or the Department of Insurance, as appropriate.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:2, 22:11, 22:18, 22:2191, et seq., and the Administrative Procedure Act, R.S. 49:950, et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 48:

§18111. Actions Against License; Notice of Wrongful Conduct; Opportunity to Show Compliance

A. Prior to the institution of an agency proceeding regarding the revocation, suspension, annulment, or withdrawal of a license, the Commissioner shall give the licensee notice of the wrongful conduct alleged and an opportunity to show compliance with all lawful requirements for the retention of the license in accordance with R.S. 49:950 et seq. The notice of wrongful conduct shall be in writing, mailed or delivered personally to the licensee at the last known address or principal place of business identified in the Department’s database for the licensee, and it must include the particulars set forth under Subpart B. herein.

B. The notice of wrongful conduct shall include a statement of the legal authority and alleged facts or conduct under which the Department’s enforcement action is based. The notice of wrongful conduct shall also include references to the applicable provisions of Title 22 and regulations promulgated by the Department, and it shall advise the licensee of the opportunity to show compliance with all lawful requirements for retention of the license.

C. The licensee shall have 20 calendar days from the mailing or personal delivery of the notice of wrongful conduct by the Commissioner to demonstrate compliance with all lawful requirements for retention of the license as specified in the notice of wrongful conduct, unless the Commissioner determines that an extension of time is warranted.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:2, 22:11, 22:18, 22:2191, et seq., and the Administrative Procedure Act, R.S. 49:950, et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 48:

§18113. Notice of Regulatory Action

A. If the licensee fails to demonstrate compliance with all lawful requirements of Title 22 for retention of the license to the satisfaction of the Commissioner within 20 calendar days of the mailing or personal service of the notice of wrongful conduct, or within any extension of time approved by the Commissioner, a notice of regulatory action may be issued. The notice shall be in writing and issued via mail or by personal delivery to the last known address or principal place of business identified in the Department’s database for the licensee. The revocation, suspension, annulment, or withdrawal of a license shall take effect 10 calendar days from the date of issuance of the notice of regulatory action, unless otherwise provided in Title 22. The licensee shall have the right to timely demand an administrative hearing to contest the notice of regulatory action in accordance with R.S. 22:2191, et seq.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:2, 22:11, 22:18, 22:2191, et seq., and the Administrative Procedure Act, R.S. 49:950, et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 48:

§18115. Notice of Summary Suspension or Order

A. Notwithstanding any other provision of this regulation, if the Commissioner finds that the public health, safety, or welfare of Louisiana citizens imperatively requires emergency action, the Commissioner may issue a notice of summary suspension or order to the licensee, setting forth

the basis for such a finding. The notice of summary suspension or order shall be in writing, mailed or delivered personally to the licensee at the last known address or principal place of business identified in the Department's database for the licensee, and it may be issued while agency proceedings for license revocation or other adverse actions authorized by R.S. 49:961(C) are pending, unless otherwise provided in Title 22. The licensee shall have the right to timely demand an administrative hearing to contest the notice of summary suspension or order in accordance with R.S. 22:2191, et seq.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:2, 22:11, 22:18, 22:2191, et seq., and the Administrative Procedure Act, R.S. 49:950, et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 48:

§18117. Stay of Action

A. A demand for an administrative hearing shall not operate as an automatic stay of any order issued by the Commissioner or any action taken or proposed to be taken by the Commissioner unless such relief is granted by the Division of Administrative Law pursuant to R.S. 22:2204 and the Administrative Procedure Act, R.S. 49:950, or as otherwise provided in Title 22. All demands for hearing and requests for a stay of action shall be filed in accordance with Chapter 12 of the Louisiana Insurance Code, R.S. 22:2191, et seq. and held in accordance with the Administrative Procedure Act, R.S. 49:950, et seq.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:2, 22:11, 22:18, 22:2204, and the Administrative Procedure Act, R.S. 49:950, et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 48:

§18119. Effective Date

A. This regulation shall become effective upon final publication in the Louisiana Register.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:2, 22:11, 22:18, 22:2191, et seq., and the Administrative Procedure Act, R.S. 49:950, et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 48:

Family Impact Statement

1. Describe the Effect of the Proposed Regulation on the Stability of the Family. The proposed regulation should have no measurable impact upon the stability of the family.

2. Describe the Effect of the Proposed Regulation on the Authority and Rights of Parents Regarding the Education and Supervision of their Children. The proposed regulation should have no impact upon the rights and authority of children regarding the education and supervision of their children.

3. Describe the Effect of the Proposed Regulation on the Functioning of the Family. The proposed regulation should have no direct impact upon the functioning of the family.

4. Describe the Effect of the Proposed Regulation on Family Earnings and Budget. The proposed regulation should have no direct impact upon family earnings and budget.

5. Describe the Effect of the Proposed Regulation on the Behavior and Personal Responsibility of Children. The proposed regulation should have no impact upon the behavior and personal responsibility of children.

6. Describe the Effect of the Proposed Regulation on the Ability of the Family or a Local Government to Perform the Function as Contained in the Rule. The proposed regulation should have no impact upon the ability of the family or a local governmental unit to perform the function as contained in the rule.

Poverty Impact Statement

1. Describe the Effect on Household Income, Assets, and Financial Security. The proposed regulation should have no effect on household income assets and financial security.

2. Describe the Effect on Early Childhood Development and Preschool through Postsecondary Education Development. The proposed regulation should have no effect on early childhood development and preschool through postsecondary education development.

3. Describe the Effect on Employment and Workforce Development. The proposed regulation should have no effect on employment and workforce development.

4. Describe the Effect on Taxes and Tax Credits. The proposed regulation should have no effect on taxes and tax credits.

5. Describe the Effect on Child and Dependent Care, Housing, Health Care, Nutrition, Transportation and Utilities Assistance. The proposed regulation should have no effect on child and dependent care, housing, health care, nutrition, transportation, and utilities assistance.

Small Business Analysis

The impact of the proposed regulation on small businesses as defined in the Regulatory Flexibility Act has been considered. It is estimated that the proposed action is not expected to have a significant adverse impact on small businesses. The agency, consistent with health, safety, environmental and economic welfare factors has considered and, where possible, utilized regulatory methods in the drafting of the proposed regulation that will accomplish the objectives of applicable statutes while minimizing the adverse impact of the proposed regulation on small businesses.

1. Identification and Estimate of the Number of the Small Businesses Subject to the Proposed Rule. The proposed regulation should have no measurable impact upon small businesses.

2. The Projected Reporting, Record Keeping, and Other Administrative Costs Required for Compliance with the Proposed Rule, Including the Type of Professional Skills Necessary for Preparation of the Report or Record. The proposed regulation should have no measurable impact upon small businesses.

3. A Statement of the Probable Effect on Impacted Small Businesses. The proposed regulation should have no measurable impact upon small businesses.

4. Describe any Less Intrusive or Less Costly Alternative Methods of Achieving the Purpose of the Proposed Rule. The proposed regulation should have no measurable impact on small businesses; therefore, there is no less intrusive or less costly alternative method of achieving the purpose of the proposed regulation.

Provider Impact Statement

1. Describe the Effect on the Staffing Level Requirements or Qualifications Required to Provide the Same Level of Service. The proposed regulation will have no effect.

2. The Total Direct and Indirect Effect on the Cost to the Provider to Provide the Same Level of Service. The proposed regulation will have no effect.

3. The Overall Effect on the Ability of the Provider to Provide the Same Level of Service. The proposed regulation will have no effect.

Public Comments

Interested persons who wish to make comments may do so by writing to Philip Dominique, Staff Attorney, Louisiana Department of Insurance, P.O. Box 94214, Baton Rouge, LA 70804-9214, or by faxing comments to (225) 342-1632. Comments will be accepted through the close of business, 4:30 p.m., January 10, 2022.

James J. Donelon
Commissioner

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Regulation 120—Administrative and Agency Proceedings Instituted Against a License

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

The proposed rule is not anticipated to result in implementation of costs or savings to the state or local governmental units. The proposed rule is promulgated to establish procedures for governing the administrative and agency proceedings instituted against a license. The proposed rule prescribes time delays for notices sent to a licensee, mechanism for requesting a stay, and procedures governing administrative action with respect to a license in accordance with R.S. 22:2191, et seq.

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

The proposed rule will have no impact on state or local governmental revenues.

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

The proposed rule may have an affect on any insurance license issued in Louisiana. The proposed rule sets forth procedures and time delays that govern the institution of administrative and agency proceedings resulting in administrative action against any licensee.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule will have no impact upon competition and employment in the state.

Denise Gardner
Chief of Staff
2112#045

Alan M. Boxberger
Deputy Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

Department of Public Safety and Corrections Office of Motor Vehicles

Designations or Restrictions on Driver's Licenses and Identification Cards (LAC 55:III.108)

Editor's Note: This Notice of Intent is being repromulgated to correct a submission error. The original Notice of Intent can be viewed in the November 20 2021, *Louisiana Register* on pages 1771-1773.

Under the authority of R.S. 37:3270 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Office of Motor Vehicles, hereby proposes to amend section 108 under Chapter 1 to implement a more comprehensive version of Title 55 as it relates to the rules governing designations or restrictions on driver's licenses and identification cards. In addition to a more comprehensive version of the rules governing driver's licenses and identification cards, the Office of Motor Vehicles implements Act 137 of the 2020 Regular Legislative Session regarding a designation for applicants with autism spectrum disorder.

Title 55

PUBLIC SAFETY

Part III. Motor Vehicles

Chapter 1. Driver's License

Subchapter A. General Requirements

§108 Designations or Restrictions on Driver's Licenses and Identification Cards

A. - A.6. ...

B. Autism

1. A special Louisiana driver's license shall be issued to any applicant upon request who has been diagnosed as having autism spectrum disorder. The designation shall be issued by the Department and exhibited on the driver's license.

2. An "autism" designation shall be exhibited on a driver's license, including a temporary instructional permit.

3. Only applicants with autism spectrum disorder documented as required in Paragraph B.4 of this Section are eligible for the designation "autism."

4. All applications for an "autism" designation shall be accompanied by one of the following to obtain the designation authorized in this Section:

a. a statement, on a form provided by the department, from a qualified medical professional licensed in Louisiana or another state or territory of the United States, stating the medical information which establishes the individual as having autism spectrum disorder; or

b. a statement from a qualified medical or mental health professional verifying the applicant's diagnosis; or a statement from a qualified mental health professional licensed in Louisiana or any other state or territory of the United States verifying the applicant's disability.

5. If the holder of a driver's license with an "autism" designation no longer wishes to have the designation displayed on the driver's license, the holder shall return the credential to have the designation removed.

6. No additional fee shall be charged to include such a designation. The charge for an "autism" driver's license shall be the same as for regular driver's license.

C. Deaf or Hard of Hearing

1. A special Louisiana driver's license card shall be issued to any applicant who is deaf or hard of hearing.

2. A restriction code will be placed on the driver's license for deaf or hard of hearing and these codes will be inclusive of a Restriction 41 as well.

3. Only applicants who are deaf or hard of hearing documented as required in Paragraph B.4 of this Section are eligible to have the restriction code placed on their driver's license.