§ 2100 Short title

This Part may be cited as the Hospital Licensing Law.

§ 2101 Purpose

The purpose of this Part is to provide for the protection of the public health through the development, establishment, and enforcement of standards for the care of individuals in hospitals; and for the construction, maintenance, and operation of hospitals which, in light of advancing knowledge, will promote safe and adequate treatment of such individuals in hospitals; and for regulating the operation and maintenance of hospitals in Louisiana.

§ 2102 Definitions

As used in this Part:

A. "Hospital" means any institution, place, building, or agency, public or private, whether for profit or not, with facilities for the diagnosis, treatment, or care of persons who are suffering from illness, injury, infirmity, or deformity or other physical condition for which obstetrical, medical, or surgical services would be available and appropriate and which operates or is affiliated with facilities for the overnight care, observation, or recovery of those persons. The term "hospital" does not include the following:

(1) Physicians' offices or clinics where patients are not regularly kept as bed patients for twenty-four hours or more.


(3) Persons, schools, institutions or organizations engaged in the care and treatment of mentally retarded children and which are required to be licensed by the provisions of R.S. 28:562 through R.S. 28:566.

(4) Hospitalization or care facilities maintained by the state at any of its penal and correctional institutions provided that nothing herein contained shall prevent a penal or correctional institution from applying for licensure of its hospitalization or care facility.

(5) Hospitalization or care facilities maintained by the federal government or agencies thereof.

(6) Hospitalization or care facilities maintained by any university or college provided that nothing herein contained shall prevent any college or university from applying for licensure of its hospitalization or care facility.

(7) Any other entity licensed for the diagnosis, treatment, or care of persons admitted for overnight stay.

B. "Person" means the state, and any political subdivision or municipal corporation thereof, an individual, firm, partnership, corporation, company, association or joint stock association, or the legal successor thereof.

C. "Department" means the Department of Health and Hospitals of the state of Louisiana.
D. "Secretary" means the secretary of the Department of Health and Hospitals of the state of Louisiana.

La. R.S. 40:2102

§ 2103 Date licenses must be obtained; moratorium on licensure of long-term care hospitals and beds

A. After July 1, 1961, no person acting individually or jointly with any other person shall establish, conduct, or maintain a hospital without a license from the department, except that any hospital in operation at the time of enactment of this Part shall make application for a license and may continue in operation until action has been taken on the application. Such hospitals shall be given a reasonable time, under the particular circumstances, not to exceed one year without department approval from the date of adoption of rules, regulations, and minimum standards as herein provided, within which to comply with such rules, regulations, and minimum standards.

B. A provisional license may be issued to a hospital for periods of six months in cases where sufficient compliance with regulations, codes or minimum standards require an extension of time. The failure to comply must not be detrimental to the health or safety of the residents and the deficiencies must be cited at the time of issuance.

C. (1) Notwithstanding any other provision of law to the contrary, the Department of Health and Hospitals shall implement a moratorium, effective August 1, 1997, on the licensure of long-term care hospital facilities and beds in long-term care hospital facilities. The Department of Health and Hospitals shall not approve for licensure as a hospital and enrollment as a Medicaid provider any long-term care hospital facility, as defined in 42 CFR 412.23, nor shall it approve for licensure and enrollment as a Medicaid provider any bed in such a facility, until July 1, 2008.

(2) This moratorium shall not apply to facilities licensed and converted to long-term care hospital facilities prior to December 1, 1997, or to Louisiana entities that, prior to July 1, 1997, have filed an application for accreditation with the Joint Commission on Accreditation of Healthcare Organizations for facilities leased from a major teaching hospital, and have given notice to the Department of Health and Hospitals of their intention to obtain long-term care hospital status for such hospital facilities.

(3) Without limiting the generality of the foregoing, the legislature specifically intends that this moratorium shall not apply to the facility in Orleans Parish formerly known as New Orleans General Hospital. Further, to the extent permitted by federal law this moratorium shall apply only to facilities enrolled in the Medicaid program.

La. R.S. 40:2104

§ 2104 Application

A. An application for a license shall be made to the department on forms provided by it and shall contain such information as the department reasonably requires, which may include affirmative evidence of ability to comply with such reasonable standards, rules, and regulations as are lawfully prescribed hereunder and information required for health planning pursuant to R.S. 36:256(B). Additional information required by the licensing agency or for health planning shall be supplied on supplemental forms as needed.

B. As a condition of licensure, the department may require hospitals to provide certain information including but not limited to financial, demographic, and census information. The department shall promulgate rules to implement this Subsection in accordance with the Administrative Procedure Act. Such information shall be shared with the Louisiana Hospital Association, which shall be subject to the same confidentiality requirements provided for in this Subpart.

La. R.S. 40:2105

§ 2105 Procedure and investigation relative to issuance of license

A. Following receipt of an application for license the department shall issue a license if the applicant and hospital facility meet the requirements established under this Part and the minimum standards adopted in pursuance thereof.
B. Any officer or duly authorized agent of the Department of Health and Hospitals, the fire marshal, or either, may enter and inspect any building or premises at any reasonable time to secure compliance with or to prevent the violation of any provision of this Part.

C. The department may, either before or after the issuance of a license, request the cooperation of the fire marshal to make investigations to determine if the applicant or licensee is complying with the minimum standards promulgated by the department. The report and recommendations of any such agency shall be in writing and shall state with particularity its findings with respect to compliance or noncompliance with such minimum standards. It shall be the duty of the fire marshal to cooperate with the department in the enforcement of this Part and the minimum standards adopted in pursuance thereof when called upon by the department.


§ 2106 Confidential nature of financial information and financial records

Notwithstanding the provisions of the Public Records Act, financial information and financial records received by the department under the provisions of this Part shall be held confidential and shall not be disclosed except when subpoenaed in a proceeding for the revocation, suspension, or denial of a license.


§ 2107 Fees and limitations

A. The application by any person for a license or renewal of a license to operate a hospital shall be accompanied by a fee of one hundred dollars plus three dollars per bed which is hereby levied as the license fee for operation of a hospital for a period of one year; provided hospitals subject to the licensing requirements of this Part which are owned and operated by the state of Louisiana shall be exempt from payment of the fees stipulated in this Section. The fees herein levied and collected shall be paid into the general fund.

B. Each license issued hereunder shall be for a period of one year from date of issuance unless sooner revoked, shall be on a form prescribed by the Department, shall not be transferable or assignable, shall be issued only for the person and premises named in the application, shall be posted in a conspicuous place on the licensed premises, and may be renewed from year to year upon application and payment of the license fee as in the case of the procurement of an original license.


§ 2108 Hospital Licensing Council

A. There is hereby established a Hospital Licensing Council composed of twelve members, eight of whom shall be appointed by the Governor as hereinafter provided, and four of whom shall be ex-officio members as hereinafter designated.

B. One member of the Hospital Licensing Council shall be chosen from the medical profession and be appointed by the Governor from a list of three names submitted by the Louisiana State Medical Society; one member shall be chosen from the dental profession and be appointed by the Governor from a list of three names submitted by the Louisiana State Dental Association; six of the members shall be actively engaged in hospital administration and shall be appointed by the Governor from a list of eighteen names submitted by the Louisiana Hospital Association, at least three of whom shall be members of governing boards or administrators of hospitals in rural areas of 50-bed capacity or less. Ex-officio members of the Hospital Licensing Council shall be the Director of the State Department of Hospitals, or his designate, the Commissioner of the State Department of Public Welfare, or his designate, the President of the State Board of Health, or his designate, and the President of the State Board of Medical Examiners, or his designate. The original members appointed from the medical and dental professions shall serve for 4 years. Three of the other original appointees shall serve staggered terms of 1, 2 and 3 years each; the other three original appointees shall serve terms of 4 years each. All subsequent appointments shall be for 4 years, except that in the case of a vacancy the appointees shall
serve the remainder of the unexpired term; any vacancy shall be filled in the same manner as the original appointment and from the same group as was represented by the outgoing member. The representative of the State Department of Hospitals shall serve as Chairman. Members of the Hospital Licensing Council shall meet upon call of the Chairman. Meetings shall be held at least twice each calendar year. Six members shall constitute a quorum at any meeting. Other meetings may be held on call of the Chairman or upon written request of a majority of the appointed members.

C. The appointed members of the Hospital Licensing Council shall serve without salary, but shall be allowed a per diem of $20.00 while attending meetings of the Council or while performing services for the Council under direction of the Chairman of the Council, and their actual and necessary expenses in attending meetings and carrying out their duties as members of said Council. Ex-officio members employed by the State shall be allowed only expenses for travel, payable respectively by the Department employing them, except that the President of the State Board of Medical Examiners may be paid the usual per diem in lieu of salary paid him by his Board, plus travel expenses.

D. It shall be the duty of the department to study the needs of the state in relation to the establishment of minimum standards of maintenance and operation of hospitals and to adopt and promulgate rules, regulations and minimum standards governing operation and maintenance of hospitals.

§ 2109 Rules, regulations, and minimum standards

A. In order to carry out the purposes of this Part, the Department of Health and Hospitals, subject to the provisions of R.S. 40:2108(D), shall, after a public hearing, adopt rules, regulations, and minimum standards, which shall have the effect of law, governing the operation and maintenance of hospitals; thereafter, in accordance with the same procedure the department may modify, amend, or rescind such rules, regulations, and minimum standards.

B. The minimum standards adopted by the secretary governing operation and maintenance of hospitals may contain regulations in relation to:

1. (a) Construction of hospital buildings, facilities, and equipment, including regulations on plumbing, heating, lighting, ventilation, fire protection, fire prevention devices and equipment, floor space, and other housing conditions designed to insure the health, safety, and comfort of patients.

   (b) No regulation or policy adopted by the secretary or any other department or agency of the state, other than the Department of Transportation and Development, shall make applicable to any vehicle or trailer duly licensed for operation or movement on public highways, any standard for fire protection or fire prevention equipment or any other related or similar requirement greater than that applied to office operations when such trailer is used for the purpose of housing and transporting medical and diagnostic or therapeutic equipment to be used for hospital patients. This Subparagraph shall apply only to regulations and policies adopted prior to four years after July 19, 1990.

2. Sanitary conditions, practices and environment and sanitary and sterilization procedures and practices designed to avoid sources and transmission of infections, including regulations governing the isolation of patients with communicable diseases.

3. Diet related to the needs of each patient based on good nutritional practice and on recommendation of the attending physician; laboratory, X-ray and pharmacy facilities or access of the hospital to such facilities; personnel having responsibility for any part of the care and treatment of patients.

4. Equipment essential to the health, care and maximum well-being of the patients of the hospital.

5. Such other regulations or standards as will insure proper care and treatment of patients as may be deemed necessary for an effective administration of this Part.

6. Classification of hospitals and variation of standards so as to insure realistic, practical, and uniform standards for the hospitals in each classification. However, no rule, regulation, policy, or standard adopted by the secretary shall
require a hospital located in a parish with a population of two hundred fifty thousand people or less to maintain personnel in-house with credentials to administer obstetric anesthesia on a twenty-four-hour basis in order to qualify for Medicaid reimbursement for Level III, neonatal or obstetric medical services, or as a prerequisite for licensure to provide such services. Personnel with such credentials may be required to be on staff and readily available on a twenty-four-hour on-call basis and demonstrate ability to provide anesthesia services within twenty minutes.

(7) Minimum number of beds required, which shall be ten.

C. Any health care facility that proposes to utilize beds for post-hospital extended care, including distinct-part skilled, intermediate, and swing, and admits nursing home patients who receive Medicaid payments to those beds shall meet all licensure requirements for nursing homes. Such requirements shall include but not be limited to a nursing home license, employment of a nursing home administrator, social service designee, and a patient activity coordinator, and all need criteria and resource goals promulgated by the Department of Health and Human Resources and the Statewide Health Coordinating Council pursuant to Section 1122 of the Social Security Act. A review for need shall be conducted by the Department of Health and Human Resources utilizing the State Health Plan resource goals and departmental need criteria regardless of whether there is a capital expenditure. If need is not established in accordance with the need criteria and resource goals, license shall be denied for utilization of those beds. Distinct-part skilled and swing beds approved for utilization pursuant to the provisions of this Subsection shall be limited to twenty such beds per hospital.

D. Any health care facility which, on the effective date of this Subsection, has in operation any distinct-part skilled or swing beds or has been notified by the division of policy, planning, and evaluation of the Department of Health and Human Resources that such proposed beds do not require health planning review, and which would otherwise be subject to the provisions of this Section, shall be exempted from health planning review to determine need for such beds. However, nothing herein shall be construed to allow the participation in the Medicaid program of such classification of beds unless the facility and beds possess a Title XIX provider agreement prior to September 1, 1987.

E. (1) The secretary shall adopt rules, regulations, and minimum standards providing for the disposition of patients' medical records upon closure of a hospital. Such regulations may require submission by a hospital which is closing of a plan for the disposition of patients' medical records to the secretary for his approval. Notwithstanding the provisions of R.S. 40:2144, the secretary may approve any plan which he deems to be in the best interest of the patients.

(2) However, the provisions of this Subsection shall not be construed to authorize the secretary to close any hospital without approval as otherwise provided by law.

F. In addition to any other standard for licensure adopted in this Section and any other applicable state or federal law or regulation, the minimum standards adopted by the secretary shall provide that hospitals may not pay or reimburse, directly or indirectly, any sum for leave-of-absence days for any patient admitted to the hospital, directly or indirectly, from a nursing home facility. Any such payment or reimbursement as prohibited by this Section shall be deemed to be payment for referral within the meaning of applicable law.

§ 2109.1 Procedures for rape victims; emergency rooms of licensed hospitals; immunity

A. All licensed hospitals in Louisiana shall adhere to the following procedures in the event that a person, male or female, presents himself or is presented at the hospital for treatment as a victim of rape, attempted rape, carnal knowledge, or crime against nature:

(1) The victim shall make the decision of whether or not the incident will be reported to law enforcement officials. No hospital may require the person to report the incident in order to receive medical attention.

(2) If the victim does not wish to report the incident to law enforcement officials, the victim shall be examined and treated as a regular emergency room patient. Any injuries requiring medical attention shall be treated in the standard manner. Tests and treatments exclusive to a rape victim shall be explained to the patient, along with the costs for such tests. The patient shall decide whether or not such tests shall be conducted. Any examination and treatment shall include
the preservation, in strict confidentiality, for a period of thirty days from the time the victim is presented for treatment, of tests or procedures, or both, and samples that may serve as potential evidence. The patient shall be informed of the length of time for which the specimens will be preserved. If the victim does not wish to report the incident to law enforcement authorities, the hospital’s responsibilities, beyond medical treatment, shall be limited to the collection of tests, procedures, or samples that may serve as potential evidence. Any evidence so collected shall then be assigned a code number and the hospital shall maintain code records for a period of thirty days from the date the victim is presented for treatment, said code records to be used for identification should the victim later choose to report the incident. Once a code number has been assigned, custody of such evidence shall be transferred to the local law enforcement agency having jurisdiction in the parish in which the hospital is located, and responsibility for the custody of such evidence shall belong to that law enforcement agency. The hospital shall coordinate the transfer of such evidence with the local law enforcement agency in a manner designed to protect its evidentiary integrity. Evidence which is transferred to the custody of the appropriate law enforcement agency shall bear only the code number assigned by the hospital.

(3) If the victim wishes to report the incident to law enforcement officials, the hospital staff shall contact the appropriate law enforcement agency. After the incident has been reported, the victim shall be examined and treated as a regular emergency room patient, any injuries requiring medical attention will be treated in the standard manner, and specimens shall be kept for evidence. Such evidence shall be turned over to the law enforcement officers when they arrive to assume responsibility for investigation of the incident.

(4)(a) Notwithstanding any other provisions of this Section, if any person sixteen years old or younger presents himself or is presented at a licensed hospital for treatment as a victim of any of the alleged crimes listed in this Section, the hospital staff shall immediately notify the appropriate law enforcement official.

(b) The coroner of the parish, the district attorney, appropriate law enforcement officials, and hospital personnel may develop procedures pursuant to R.S. 15:440.1 through 440.6 to make a videotape of the person provided for in Subparagraph (a) when a person fourteen years old or under has been the victim of physical or sexual abuse. The costs of such videotaping may be allocated among the agencies and facilities involved.

(5) Notwithstanding any other provisions of this Section if the victim is physically or mentally incapable of making an intelligent decision, the hospital staff shall immediately notify the appropriate law enforcement officials.

B. These procedures shall constitute minimum standards for the operation and maintenance of hospitals under the provisions of this Part and failure to comply with such standards shall constitute grounds for denial, suspension, or revocation of license under provisions of this Part.

C. When a licensed hospital fails to examine and treat a person, male or female, who has presented himself or herself or who has been presented as a victim of rape, attempted rape, carnal knowledge, or crime against nature, the coroner of the parish shall examine the alleged victim and, if necessary, make arrangements for the treatment of the victim, notwithstanding the provisions of R.S. 33:1625(C). No coroner shall refuse to examine and assist an alleged victim on the grounds the alleged offense occurred outside of or the victim is not a resident of the jurisdiction, provided the crime is reported or assistance is sought as soon as practicable. Nothing in this Subsection shall relieve a licensed hospital of its obligations under Subsections A and B hereof.

D. Any member of the hospital staff who in good faith notifies the appropriate law enforcement official pursuant to Paragraphs (4) and (5) of Subsection (A) of this Section shall have immunity from any civil liability that otherwise might be incurred or imposed because of such notification. Such immunity shall extend to participation in any judicial proceeding resulting from such report.

§ 2109.2 Hospitals; passenger elevators equipped with telephone or intercom

Commencing January 1, 1981, each hospital in this state which is licensed by the Department of Health and Hospitals and which maintains and operates one or more passenger elevators in such hospital shall equip each passenger elevator.
with a telephone or an intercom system. The Department of Health and Hospitals may adopt necessary rules, regulations, and minimum standards for the purposes of this Section. The license of any such hospital may be suspended upon failure of the hospital to comply with the provisions of this Section.

La. R.S. 40:2109.2

§ 2109.3 Pediatric advanced life support training for nurses

A. As used in this Section, the following definitions shall apply unless the content clearly states otherwise:

(1) "Pediatric ward" means a specially designated area, floor, or section in a hospital that is recognized as the area, floor, or section where infants and children can be treated.

(2) "Registered nurse" means any person licensed under R.S. 37:920 to engage in the practice of nursing.

B. No later than January 1, 1995, every registered nurse who works primarily in a hospital emergency room or pediatric ward shall be trained in an emergency nursing pediatric course that includes training in pediatric trauma and pediatric advanced life support and that has been conducted pursuant to guidelines established by the Louisiana State Board of Nursing. Training taken in compliance with this requirement may be used to satisfy continuing education requirements as established by the Louisiana State Board of Nursing. Training may be taught by any person approved pursuant to guidelines established by the Louisiana State Board of Nursing.

La. R.S. 40:2110

§ 2110 Denial, suspension or revocation of license; appeal

A. The secretary may deny, suspend or revoke a license in any case in which he finds that there has been a substantial failure of the applicant or licensee to comply with the requirements of this Part or the rules, regulations and minimum standards adopted by the department, provided in all such cases the secretary shall furnish the applicant or licensee thirty days written notice specifying reasons for the action.

B. Any applicant or licensee who feels aggrieved by the action of the secretary in denying, suspending or revoking a license may appeal suspensively from the action of the secretary in accordance with the delay, notice and other procedures set forth in R.S. 40:2009.7 B, C, and D.

C. Any person aggrieved by an action of the appellate board may, within thirty days after notification of such action, appeal suspensively to the district court for the parish of East Baton Rouge. A record of all proceedings before the board shall be made and kept on file with the board. The board shall transmit to the district court a certified copy of the record. The district court shall try the appeal de novo.

La. R.S. 40:2111

§ 2111 Penalty for violation specified

Any person establishing, conducting, managing, or operating any hospital without a license under this Part shall be guilty of a misdemeanor, and upon conviction shall be fined not more than one hundred dollars for the first offense and not more than two hundred dollars for each subsequent offense, and each day of a continuing violation after conviction shall be considered a separate offense. The district attorneys of the several parishes shall represent the State in proceedings under this Part in their respective parishes.

La. R.S. 40:2112

§ 2112 Enforcement by injunction authorized
Notwithstanding the existence or pursuit of any other remedy the secretary may, in the manner provided by law, maintain an action in the name of the state for injunction or other process against any person or governmental unit to restrain or prevent the establishment, conduct, management, or operation of a hospital without a license under this Part.

La. R.S. 40:2112

§ 2113 Charges for hospitalization and drugs

Notwithstanding any provisions of law or admission rules or standards of a state hospital governing the admission of poor and destitute patients, all persons who are eligible to receive medical assistance benefits from any agency or insurance company or other entity public or private administering or in any way participating in any federal medical assistance program shall, if admitted to a state hospital, be charged fees for their hospitalization and drugs rendered them at rates to be established by agreement between the state hospital and the agency or insurance company or other entity public or private administering or in any way participating in the federal medical assistance program and having the authority to establish such rates by agreement. All funds received from fees paid under the provisions of this Section on behalf of patients shall be paid into the general fund.


§ 2113.1 Research and training account

All funds received from fees paid by or on behalf of patients in state hospitals under the administration of the State Department of Hospitals under the provisions of Titles 28, 40 and 46 of the Revised Statutes of Louisiana of 1950 shall be deposited in a special account in the state treasury to be known as the Research and Training Account. All funds deposited in said account are hereby dedicated with further or special appropriation to the State Department of Hospitals to be used by it for the purpose of conducting research in problems relating to mental illness and mental retardation and further to conduct programs of training psychiatrists, neurologists, special educators, psychologists, nurses, technicians, social workers, occupational therapists, medical students, interns, residents, physicians, and other professional therapists, medical students, interns, residents, physicians, and other professional trainees designed to better qualify them for employment in state institutions and clinics for the mentally ill and mentally retarded and in hospitals owned and operated by the state. All funds in the Mental Health Research and Training Account created by R.S. 46:663.1 are transferred to the account herein created and all amounts collected or that may be collected for the Mental Health Research and Training Account shall be paid to the state treasurer and deposited by him in the Research and Training Account herein created. No part of the funds in this account shall revert to the State General Fund at the close of any fiscal year nor shall these funds be considered as other means of financing.


§ 2113.2 Rules, regulations and contracts

The Department of Health and Hospitals shall prescribe rules and regulations to govern the necessary contracts, agreements, and financial arrangements to properly conduct training and research programs. Such rules and regulations shall govern contracts and agreements with colleges and universities, both publicly and privately owned, within the state for the purpose of promoting research and training in relation to illnesses of all types. All rules, regulations and contracts adopted under the authority of R.S. 46:663.2 are continued in effect and made subject to the provisions herein enacted.


§ 2113.3 Hospital improvement fund

A. All funds received from fees paid by or on behalf of patients in Louisiana Charity Hospital at New Orleans and Confederate Memorial Medical Center at Shreveport under the provisions of Titles 28, 40 and 46 of the Revised Statutes of Louisiana of 1950 shall be deposited in a special account in the State Treasury to be known as the Hospital Improvement Fund, to the credit of the collecting hospital.
B. The monies so collected shall be credited to the account of the aforesaid hospitals in the Fund. For the fiscal year 1970-71 the first four hundred thousand dollars collected by Louisiana Charity Hospital at New Orleans shall be transferred to the Research and Training Account established under the provisions of R.S. 40:2113.1; for the fiscal years 1971-72 and 1972-73 the first two hundred thousand dollars collected by Louisiana Charity Hospital at New Orleans shall be transferred to the Research and Training Account established under the provisions of R.S. 40:2113.1; thereafter, no funds collected by Louisiana Charity Hospital at New Orleans shall be credited to the said Research and Training Account. The first one hundred thousand dollars credited to the account of Confederate Memorial Medical Center for the fiscal year 1970-71 shall likewise be transferred to the Research and Training Account established under the provisions of R.S. 40:2113.1; for the fiscal years 1971-72 and 1972-73 the first fifty thousand dollars credited to the account of Confederate Memorial Medical Center shall also be transferred to the Research and Training Account; thereafter, no monies credited to the account of Confederate Memorial Medical Center shall be transferred to the Research and Training Account. The remaining monies credited to the account of each such hospital in the fund are hereby dedicated without further or special appropriation to the respective hospital and shall be subject to expenditure from time to time for purchase of equipment. No part of the funds of any of said accounts shall revert to the State General Fund at the close of any fiscal year nor shall these funds be considered as other means of financing of the respective hospital.


§ 2113.4 Duty to provide services; penalty

A. Any general hospital licensed under this Part, which is owned or operated, or both, by a hospital service district, which benefits from being financed by the sale of bonds that are exempt from taxation as provided by Louisiana law, or which receives any other type of financial assistance from the state of Louisiana and which offers emergency room services to the public and is actually offering such services at the time, shall make its emergency services available to all persons residing in the territorial area of the hospital regardless of whether the person is covered by private, federal Medicare or Medicaid, or other insurance. Each person shall receive these services free from discrimination based on race, religion, or national ancestry and from arbitrary, capricious, or unreasonable discrimination based on age, sex, or physical condition and economic status. However, in no event shall emergency treatment be denied to anyone on account of inability to pay. Any such hospital found to be in violation of this Section shall not receive any client referrals from the Department of Health and Hospitals.

B. For purposes of this Section, "emergency" means a physical condition which places the person in imminent danger of death or permanent disability, or in cases of rape; however, the person may be directed to another hospital which has been designated by the coroner of the parish as a facility which specializes in care and treatment of rape victims. "Emergency services" means those services which are available in the emergency room and surgical units in order to sustain the persons' life and prevent disablement until the person is in condition to be able to travel to another appropriate facility without undue risk of serious harm to the person. Those general hospitals which do not have emergency room physician services available at the time of the emergency shall not be in violation of this Section, if after a good faith reasonable effort a physician is unavailable to provide those medical services, which according to law, only physicians are authorized to perform.

C. (1) In all cases in which a child under fourteen has been raped or physically or sexually abused, the coroner of the parish may direct the person to a facility which has been designated by said coroner as a facility which specializes in the care and treatment of such victims.

(2) The coroner, in conjunction with the designated facility and the district attorney and local law enforcement authority, may provide for and equip a room for videotaping a child pursuant to R.S. 15:440.1 through 440.6.


§ 2113.5 Services to elderly persons
Any general hospital licensed under this Part, which is owned or operated, or both, by a hospital service district, or which benefits from being financed by the sale of bonds from the state or guaranteed by the state that are exempt from taxation as provided by Louisiana law, or which receives any other type of financial assistance from the state, is directed to give, when possible, priority to the treatment of elderly, physically handicapped, or mentally handicapped persons in the delivery of nonemergency health care services.

§ 2113.6 Emergency diagnoses and services; denial for inability to pay; discriminatory practices

A. (1) No officer, employee, or member of the medical staff of a hospital licensed by the Department of Health and Hospitals shall deny emergency services available at the hospital to a person diagnosed by a licensed physician as requiring emergency services because the person is unable to establish his ability to pay for the services or because of race, religion, or national ancestry. In addition, the person needing the services shall not be subjected by any such person to arbitrary, capricious, or unreasonable discrimination based on age, sex, physical condition, or economic status.

(2) This Section shall not prohibit or apply to any action taken by a hospital, officer, employee, member of the medical staff, or physician which substantially complies with applicable federal law or regulation.

B. No officer, employee, or member of the medical staff of a hospital licensed by the Department of Health and Hospitals shall deny a person in need of emergency services access to diagnosis by a licensed physician on the staff of the hospital because the person is unable to establish his ability to pay for the services or because of race, religion, or national ancestry. In addition, the person needing the services shall not be subjected by any such person to arbitrary, capricious, or unreasonable discrimination based on age, sex, physical condition, or economic status.

C. "Emergency services" means services that are usually and customarily available at the respective hospital and that must be provided immediately to stabilize a medical condition which, if not stabilized, could reasonably be expected to result in the loss of the person's life, serious permanent disfigurement or loss or impairment of the function of a bodily member or organ, or which is necessary to provide for the care of a woman in active labor if the hospital is so equipped and, if the hospital is not so equipped, to provide necessary treatment to allow the woman to travel to a more appropriate facility without undue risk of serious harm.

D. No hospital or any officer or employee who makes a good faith effort to comply with the provisions of this Section shall be found in violation of this Section for the failure of another officer, employee, or member of the medical staff or physician to provide or delegate the provision of medical services or diagnosis as required by this Section.

E. Each hospital to which this Section applies shall provide written notice of the provisions of this Section to all officers, employees, and members of the medical staff, and other appropriate personnel who have duties related to access to and delivery of emergency services.

F. An officer, employee, or member of the medical staff of a hospital who intentionally or recklessly violates the provisions of this Section may be subject to a fine of not more than five thousand dollars and may be suspended from the state medical assistance program. Subsequent intentional or reckless violations shall be punishable by a fine of five thousand dollars and termination of participation in the state medical assistance program. For the purposes of this Section, any violation occurring more than six months after the last such violation shall not be considered a subsequent violation.

§ 2114 Organization of medical and dental staff

A. Each hospital shall have a single, organized medical and dental staff. Medical and dental staff membership shall include doctors of medicine or osteopathy who are currently licensed to practice medicine or osteopathy by the Louisiana State Board of Medical Examiners and dentists licensed to practice dentistry by the Louisiana State Board of Dentistry.
B. Each hospital offering care or services within the scope of the practice of psychology, as defined in R.S. 37:2352(5), prior to January 1, 1993, shall establish rules, regulations, and procedures for consideration of an application for medical staff membership and clinical privileges submitted by a psychologist licensed to practice psychology by the Louisiana State Board of Examiners of Psychologists. No hospital shall deny such medical staff membership and clinical privileges solely because the applicant is licensed under R.S. 37:2351 et seq.

C. No individual shall be automatically entitled to membership on the medical and dental staff or to the exercise of any clinical privilege solely on the basis of his license to practice in any state, his membership in any professional organization, his certification by any clinical examining board, or his clinical privileges or staff membership at another hospital without meeting the reasonable criteria for membership established by the governing body of the respective hospital.

D. The provisions of this Section shall in no way affect the provisions of R.S. 37:1301.

E. A hospital shall establish rules, regulations, and procedures setting forth the nature, extent, and type of staff membership and clinical privileges, as well as the limitations placed by the hospital on said staff membership and clinical privileges for all health care providers practicing therein.


§ 2115 Smoking in hospitals; prohibition; exceptions

A. Except as provided herein, smoking shall be prohibited in enclosed areas of all hospitals licensed pursuant to this Part. However, smoking may, at the discretion of the governing board of the hospital, be permitted in patient rooms, but only:

(1) Upon the order of the patient's primary treating physician.

(2) With the consent of all patients in the room, if any.

(3) In accordance with all standards established by the Joint Commission on Accreditation of Health Care Organizations and all applicable state and federal regulations.

B. For purposes of this Section, "enclosed area" shall be determined by the governing board of the hospital but shall include, at a minimum, all areas of the building that are air conditioned or heated.

C. Notwithstanding the provisions of Subsection A of this Section, the governing board of the hospital may designate a well ventilated area for smokers. Additionally, the governing board of a psychiatric hospital, the Department of Public Safety and Corrections, and the department of Health and Hospitals shall establish rules and policies to reasonably accommodate inpatients and inmates who smoke.

D. (1) Any person who, in violation of this Section, smokes in an area that has not been designated as an area for smokers may be issued a summons by a law enforcement officer. The summons shall be returned to the court having jurisdiction over misdemeanors in the parish or municipality of the domicile of the hospital.

(2) Any violation of this Subsection shall be punishable by a fine not to exceed five hundred dollars or community service not to exceed ten days, or both.


§ 2115.11 Requirement for approval of hospital acquisitions

The health of the people of our state is a most important public concern. The state has an interest in assuring the continued existence of accessible, affordable health care facilities that are responsive to the needs of the communities in
which they exist. The state also has a responsibility to protect the public interest in nonprofit hospitals by making certain that the charitable assets of those hospitals are managed prudently. Therefore, no not-for-profit hospital shall be acquired by any person unless and until the acquisition is reviewed and approved by the attorney general.


§ 2115.12 Definitions

The terms in this Subpart shall have the meaning provided below:

(1) "Acquisition" means any acquisition by a person of an ownership or controlling interest in a not-for-profit hospital, whether by purchase, merger, lease, gift, or otherwise, that results in a change of ownership or control of thirty percent or greater of either the voting rights or the assets of a hospital, or that results in the acquiring person holding a fifty percent or greater interest in the ownership or control of a hospital.

(2) "Attorney general" means the attorney general or his designee.

(3) "Charitable assets" means those tangible and intangible assets in the form of movable and immovable property and equipment, personnel, and services acquired by a hospital through the expenditure of direct and indirect state, federal and local funds, or funds retained by virtue of their non-taxable status, and through money paid through the patronage of members of the community the hospital serves.


§ 2115.13 Application to acquire a hospital

A. (1) Every person shall give the attorney general at least thirty days notice of an impending acquisition, during which time the attorney general may take any necessary and appropriate action consistent with the provisions of this Subpart.

(2) The notice shall briefly describe the impending acquisition, including any change in ownership of tangible or intangible assets.

B. (1) No person shall acquire a not-for-profit hospital without the seller first having applied for and received the approval of the attorney general pursuant to this Subpart.

(2)(a) An application shall be submitted to the attorney general on forms provided by the attorney general and shall include the following:

(i) The name of the seller.

(ii) The name of the purchaser or other parties to the acquisition.

(iii) The terms of the proposed agreement.

(iv) The sale price.

(v) A summary of the acquisition agreement.

(vi) A financial and economic analysis and report from an independent expert or consultant of the effect of the acquisition under the criteria set forth in R.S. 40:2115.17.

(b) A copy of the application shall be submitted to the attorney general. The application shall be considered a public record.
§ 2115.14 Review of application; notice

A. (1) Within five working days after receipt of an application under R.S. 40:2115.13, the attorney general shall publish notice of the application in a newspaper of general circulation in the parish where the hospital is located and shall notify by first class United States mail any person who has requested notice of the filing of such application.

(2) The notice shall state the following:

(a) That an application has been received.

(b) The names of the parties to the agreement.

(c) A description of the contents of the application.

(d) The date by which a person may submit written comments about the application to the attorney general.

B. (1) The attorney general shall, within fifteen days after the date an application is received, determine if the application is complete for the purposes of review. The attorney general may find that an application is incomplete if a question on the application form has not been answered in whole or in part, or has been answered in a manner that does not fairly meet the question addressed, or if the application does not include attachments of supporting documents as required by R.S. 40:2115.13.

(2) If the attorney general determines that an application is incomplete, he shall notify the applicant within fifteen days after the date the application was received stating the reasons for his determination of incompleteness with reference to the particular questions for which a deficiency is noted. In the absence of timely notice, the application shall be deemed complete.

C. Within sixty days after receiving a completed application, the attorney general shall review the application in accordance with the standards set forth in this Subpart and approve or disapprove the acquisition pursuant to this Subpart.

§ 2115.15 Public hearing

A. The attorney general shall, during the course of review under R.S. 40:2115.14, hold a public hearing in which any person may file written comments and exhibits, or may appear and make a statement.

B. The hearing shall be held not later than thirty days after receipt of a completed application. The hearing shall be held upon ten working days notice, not including days the application is deemed to be incomplete.

§ 2115.16 Decision; appeal

A. (1) The attorney general shall review the completed application in accordance with the criteria set forth in R.S. 40:2115.17. Within sixty days after receipt of a completed application, the attorney general shall either:

(a) Approve the acquisition, with or without specific modifications.
(b) Disapprove the acquisition.

(2) If the attorney general does not act within sixty days after receipt of an application, the application is deemed approved.

(3) If the attorney general disapproves the acquisition, he shall seek, from a court of competent jurisdiction, within the time allowed, an order enjoining the acquisition. The court shall grant the injunction, following a hearing, if it finds that the acquisition does not substantially comply with the criteria set forth in La. R.S. 40:2115.17 and 2115.18. In the event that the seller, purchaser, or attorney general disagrees with the court's decision, they may appeal as otherwise provided by law.

B. Any applicant aggrieved by a final decision of the attorney general may, within thirty days after notification of such action, appeal suspensively to the district court for the parish of East Baton Rouge. A record of all proceedings before the attorney general shall be made and kept on file with the attorney general. The attorney general shall transmit to the district court a certified copy of the record. The district court shall try the appeal de novo.

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§ 2115.17 Criteria for decision; attorney general

A. The attorney general shall approve the application unless he finds that the acquisition is not in the public interest. An acquisition is not in the public interest unless appropriate steps have been taken to safeguard the value of charitable assets and ensure that any proceeds of the transaction are used for appropriate health care purposes as provided for in R.S. 40:2115.18.

B. In determining whether the acquisition meets such criteria under this Subpart, the attorney general shall consider:

(1) Whether the hospital's board of directors exercised due diligence in deciding to sell, selecting the purchaser, and negotiating the terms and conditions of the sale.

(2) The procedures used by the seller in making its decision, including whether appropriate expert assistance was used.

(3) Whether conflict of interest was disclosed, including but not limited to conflicts of interest related to board members of, executives of, and experts retained by the seller, purchaser, or parties to the acquisition.

(4) Whether the seller will receive fair value for its assets; provided that the attorney general may employ, at the seller's expense, reasonably necessary expert assistance in making this determination.

(5) Whether funds are placed at unreasonable risk, if the acquisition is financed in part by the seller.

(6) Whether any management contract under the acquisition is for fair value.

(7) Whether the sale proceeds will be used for appropriate health care purposes consistent with the seller's original purpose or for the support and promotion of health care in the affected community and whether the proceeds will be controlled as funds independently of the purchaser or parties to the acquisition.

(8) Whether any corporation established to hold the proceeds of the sale will be broadly based in the community and be representative of the affected community, taking into consideration the structure and governance of such corporation.

(9) Whether a right of first refusal to repurchase the assets by a successor corporation or foundation has been retained if the hospital is subsequently sold to, acquired by, or merged with another entity.
§ 2115.18 Additional criteria for decision; attorney general

In making a decision whether to approve or disapprove an application, the attorney general shall also determine whether the acquisition affects the continued existence of accessible, affordable health care facilities that are responsive to the needs of the community. In making this determination, the attorney general shall consider:

(1) Whether sufficient safeguards are included to assure the affected community continued access to affordable care.

(2) Whether the purchaser and parties to the acquisition have made a commitment, at least comparable to the seller, to provide health care to the disadvantaged, the uninsured, and the underinsured and to provide benefits to the affected community to promote improved health care. Activities and funding provided by the seller or its successor nonprofit corporation or foundation to provide such health care or to provide support or medical education and teaching programs or medical research programs shall be considered in evaluating compliance with this commitment.

(3) If health care providers will be offered the opportunity to invest or own an interest in the purchaser or a related entity to the purchaser, whether procedures or safeguards are in place to avoid conflict of interest in patient referral and the nature of such procedures or safeguards.

§ 2115.19 Reports to the attorney general

A. The attorney general may require annual reports from the seller or its successor corporation or foundation and from the purchaser or other parties to the acquisition for up to five years after the date of acquisition to ensure compliance with commitments made to the attorney general. The attorney general may subpoena information and documents reasonably necessary to assure compliance.

B. If the attorney general receives information indicating that the acquiring person is not fulfilling the commitment to the affected community as provided for in R.S. 40:2115.18, the attorney general shall hold a hearing upon ten days notice to the affected parties. If after the hearing the attorney general determines that the information is true, it may petition the department to revoke the license issued to the purchaser. Any action by the department to revoke the license shall conform to the procedure in R.S. 40:2109 et seq., and the regulations promulgated thereunder.

§ 2115.20 Violations; license suspension or revocation

A. No license to operate a hospital may be issued or renewed by the department pursuant to this Subpart or any other state statute, and a license that has been issued may be revoked or suspended if any of the following occurs:

(1) There is an acquisition of a hospital without first having received the approval of the attorney general.

(2) There is an acquisition of a hospital and the attorney general disapproves the acquisition.

(3) The hospital is not fulfilling its commitment under R.S. 40:2115.18(2) or is not following procedures or safeguards committed pursuant to R.S. 40:2115.18(3).

B. Any decision to refuse to issue or renew a license under this Subpart, and any action to revoke or suspend a license under this Subpart, shall conform to the procedure for issuance, renewal, revocation and suspension of licensure in R.S. 40:2109 et seq., and the regulations promulgated thereunder.
§ 2115.21 Excluded acquisitions

Any acquisition of a hospital before September 1, 1997, and any acquisition of a hospital which has been finally approved before January 1, 1998, according to any procedure in effect prior to the procedures set forth in this Subpart, shall not be subject to the provisions of this Subpart.

§ 2115.22 Prohibited acquisitions

Any proprietary hospital management company shall be prohibited from purchasing a not-for-profit hospital that such management company has managed at any time in the previous three years prior to the date of sale.

§ 2115.23 Authority for regulation

The attorney general may adopt rules and regulations pursuant to the Administrative Procedure Act to implement this Subpart and to contract with and provide reasonable reimbursement to qualified persons to assist in determining criteria set forth in R.S. 40:2115.17 and 2115.18.