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Executive Orders

EXECUTIVE ORDER JBE 23-14

Flags at Half-Staff—Elcie J. Guillory

WHEREAS, Elcie Joseph Guillory, a distinguished former member of the Louisiana Legislature, died on Tuesday, September 26, 2023, at the age of 89;

WHEREAS, he was preceded in death by his loving wife of sixty-seven years, Ruby Bellard Guillory; he is survived by three daughters, Sharon, Juliet, and Cynthia; three grandchildren, Thaddeus, Danielle, and Rachel; six great-grandchildren; sisters, Mary Ann, Shirley, Marva, Anna, Loubertha, and Mary; brother, Nelson; and numerous other family members and countless dear friends and admirers;

WHEREAS, born on December 26, 1933, in Mallet, Louisiana, Guillory was raised in a large family of twelve children and grew up to be a trailblazer in his community of southwest Louisiana;

WHEREAS, in 1975, he began a long and storied career in public service, when the voters of Calcasieu Parish elected him as one of their first African-American Police Jurors, and he served in that capacity for seventeen years;

WHEREAS, in 1993, he won election to the Louisiana House of Representatives, serving the people of District 34 for fourteen years; during his tenure in the House, he was an influential member of various committees, including Appropriations, Health and Welfare, Labor, Education, and Telecommunications; he was a powerful figure in the Louisiana Legislative Black Caucus and the Acadiana Delegation; he was recognized nationwide as an exemplary legislator, as a member of the National Council of State Legislators; he was a steadfast supporter of rural healthcare and vital infrastructure; and

WHEREAS, Elcie J. Guillory lived a life of tremendous faith, integrity, and honor, and his many years as a public servant and a lawmaker to the State of Louisiana will long be remembered.

NOW THEREFORE, I, JOHN BEL EDWARDS, Governor of the State of Louisiana, by virtue of the authority vested by the Constitution and laws of the State of Louisiana, do hereby order and direct as follows:

SECTION 1: As an expression of respect and to honor Elcie J. Guillory, the flags of the United States and the State of Louisiana shall be flown at half-staff over the State Capitol and all state buildings from sunrise until sunset on Saturday, October 7, 2023.

SECTION 2: This Order is effective upon signature and shall remain in effect until sunset on Saturday, October 7, 2023.

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of Louisiana in the City of Baton Rouge, on this 5th day of October, 2023.

John Bel Edwards
Governor

ATTEST BY
THE GOVERNOR
R. Kyle Ardoin
Secretary of State
2310#054

EXECUTIVE ORDER JBE 23-15

Flags at Half-Staff—Dr. Jerry Thomas

WHEREAS, Doctor Jerry Aroe Thomas, M.D., a distinguished former member of the Louisiana Legislature, died on Tuesday, September 26, 2023, at the age of 70;

WHEREAS, he is survived by his loving wife forty-seven years, Lou Ann Pitre Thomas; their four children, Dr. Jason Thomas (Kathryn), Pete Thomas, Lander Thomas, and Joanna Gill (Blake); sister, Dianna Thomas; grandchildren, Jon-Ashton, Lily, Abrie, Landry, Evelyn, Rush, Eleanor, and Everett; numerous other family members and countless dear friends and admirers;

WHEREAS, born on May 22, 1953, to R.O. Thomas and Frances Nelline Thomas, Thomas grew up in Franklinton, Louisiana and was an all-state basketball player and the valedictorian of Thomas High School's class of 1971;

WHEREAS, in 1974, he received his Bachelor of Science degree in zoology, *summa cum laude*, from Southeastern Louisiana University in Hammond; he then went on to attain his Doctorate in Medicine from Louisiana State University Health Sciences Center in New Orleans, Louisiana;

WHEREAS, after medical school, Thomas was elected coroner of Washington Parish, the youngest coroner ever elected in Louisiana, and he served the people of his home parish in that position for eight years; in addition to his duties as coroner, Doctor Thomas served during that time as a faculty member in the family medicine department at the LSU School of Medicine in New Orleans;

WHEREAS, he served his state and his nation honorably with the rank of Major in the Louisiana National Guard, at home and abroad as the Battalion Surgeon of the 205th Engineer Battalion;

WHEREAS, in 1987, the voters of Tangipahoa and Washington Parishes elected Dr. Thomas to the House of Representatives of the Louisiana Legislature, where he served for three terms; he then won election to serve in the Senate of the Louisiana Legislature, where he faithfully served the people of St. Helena, Tangipahoa, Washington and parts of St. Tammany until 2004;

WHEREAS, during his tenure in the legislature, he was a steadfast supporter of rural healthcare, assuring funding for medical facilities within his district at a turbulent time for the state’s healthcare infrastructure; he also fought for the creation of Bogue Chitto State Park, helped finance important highway developments, and established a new library in Franklinton;

WHEREAS, both during and after his time in politics, he served his district and his community in Washington Parish in myriad ways, notably establishing the Thomas Community Health Center to provide vital medical care to the people of his home; and

WHEREAS, Dr. Jerry A. Thomas lived a life of dedicated faith and tireless devotion to the wellbeing of the people of our State, and his service as a physician and a lawmaker to the State of Louisiana will long be remembered.

NOW THEREFORE, I, JOHN BEL EDWARDS, Governor of the State of Louisiana, by virtue of the authority vested by the Constitution and laws of the State of Louisiana, do hereby order and direct as follows:

SECTION 1: As an expression of respect and to honor Dr. Jerry A. Thomas, the flags of the United States and the State of Louisiana shall be flown at half-staff over the State Capitol and all state buildings from sunrise until sunset on Monday, October 2, 2023.

SECTION 2: This Order is effective upon signature and shall remain in effect until sunset on Monday, October 2, 2023.

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of Louisiana on this 28th day of September, 2023.

John Bel Edwards
Governor

ATTEST BY
THE GOVERNOR
R. Kyle Ardoin
Secretary of State
2310#065

EXECUTIVE ORDER JBE 23-16

Bond Allocation 2023 Ceiling

WHEREAS, Section 146 of the Internal Revenue Code of 1986 (hereafter the “Act”), as amended (hereafter the “Code”), restricts the total principal amount of certain private activity bonds (hereafter the “Bonds”) that exclude interest from gross income for federal income tax purposes under Section 103 of the Code;

WHEREAS, Act No. 51 of the 1986 Regular Session of the Louisiana Legislature (hereafter “Act No. 51 of 1986”) authorizes the Governor to allocate the volume limit

applicable to the Bonds (hereafter the “ceiling”) among the State and its political subdivisions in such a manner as the Governor deems to be in the best interest of the State of Louisiana;

WHEREAS, pursuant to the Act and Act No. 51 of 1986, Executive Order Number JBE 2016-35 was issued to establish:

(a) the manner in which the ceiling shall be determined,

(b) the method to be used in allocating the ceiling,

(c) the application procedure for obtaining an allocation of Bonds subject to such ceiling, and

(d) a system of record keeping for such allocations;

WHEREAS, the Louisiana Housing Corporation (hereafter the “Corporation”) has applied for an allocation of the 2023 ceiling to be used in connection with providing funds for the acquisition, construction, rehabilitation, and equipping of residential rental housing for individuals and families of low and moderate income.

NOW THEREFORE, I, JOHN BEL EDWARDS, Governor of the State of Louisiana, by virtue of the authority vested by the Constitution and laws of the State of Louisiana, do hereby order and direct as follows:

SECTION 1: The bond issue, as described in this Section, shall be and is hereby granted an allocation from the 2023 ceiling in the amount shown:

Amount of Allocation	Name of Issuer	Name of Project
\$11,000,000	Louisiana Housing Corporation	Calcasieu Heights Senior Village Series 2023
\$22,000,000	Louisiana Housing Corporation	Capstone at the Oaks Apartments Series 2023
\$42,000,000	Louisiana Housing Corporation	Cypress at Ardendale Series 2023
\$19,000,000	Louisiana Housing Corporation	Fairmont Towers Series 2023
\$9,000,000	Louisiana Housing Corporation	MacArthur Place Series 2023
\$20,000,000	Louisiana Housing Corporation	Morningside at Gerstner Place Series 2023
\$22,500,000	Louisiana Housing Corporation	Ridgefield Apartments Series 2023
\$6,000,000	Louisiana Housing Corporation	St. Claude Gardens II Series 2023
\$21,000,000	Louisiana Housing Corporation	The Reserve at Power Place Series 2023
\$8,000,000	Louisiana Housing Corporation	Woodring Apartments Phase II Series 2023

SECTION 2: The allocation granted herein shall be used only for the bond issue described in Section 1 and for the general purpose set forth in the “Application for Allocation of a Portion of the State of Louisiana’s Private Activity Volume Cap” submitted in connection with the bond issue described in Section 1.

SECTION 3: The allocation granted herein shall be valid and in full force and effect through December 31, 2023.

SECTION 4: This Order is effective upon signature and shall remain in effect until amended, modified, terminated, or rescinded by the Governor, or terminated by operation of law.

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of the State of Louisiana in the City of Baton Rouge, on this 5th day of October, 2023.

John Bel Edwards
Governor

ATTEST BY
THE GOVERNOR
R. Kyle Ardoin
Secretary of State
2310#066

EXECUTIVE ORDER JBE 23-17

Bond Allocation 2023 Ceiling—LPFA

WHEREAS, Section 146 of the Internal Revenue Code of 1986 (hereafter the “Act”), as amended (hereafter the “Code”), restricts the total principal amount of certain private activity bonds (hereafter the “Bonds”) that exclude interest from gross income for federal income tax purposes under Section 103 of the Code;

WHEREAS, Act No. 51 of the 1986 Regular Session of the Louisiana Legislature (hereafter “Act No. 51 of 1986”) authorizes the Governor to allocate the volume limit applicable to the Bonds (hereafter the “ceiling”) among the State and its political subdivisions in such a manner as the Governor deems to be in the best interest of the State of Louisiana;

WHEREAS, pursuant to the Act and Act No. 51 of 1986, Executive Order Number JBE 2016-35 was issued to establish: (a) the manner in which the ceiling shall be determined, (b) the method to be used in allocating the ceiling, (c) the application procedure for obtaining an allocation of Bonds subject to such ceiling, and (d) a system of record keeping for such allocations;

WHEREAS, the Louisiana Public Facilities Authority (hereafter the “Authority”) has applied for allocations of the 2023 ceiling to be used in connection with providing funds for the acquisition, construction, and equipping of development projects.

NOW THEREFORE, I, JOHN BEL EDWARDS, Governor of the State of Louisiana, by virtue of the authority vested by the Constitution and laws of the State of Louisiana, do hereby order and direct as follows:

SECTION 1: The bond issues, as described in this Section, shall be and are hereby granted allocations from the 2023 ceiling in the amounts shown:

Amount of Allocation	Name of Issuer	Name of Project
\$50,000,000	Louisiana Public Facilities Authority	ElementUS Minerals, LLC (Bauxite residue reclamation and/or separation facilities and related funds and costs)
\$40,000,000	Louisiana Public Facilities Authority	Waste Pro USA, Inc. (Solid waste disposal, conversion/reclamation, and related funds and costs)

SECTION 2: The allocations granted herein shall be used only for the bond issues described in Section 1 and for the general purpose set forth in the “Application for Allocation of a Portion of the State of Louisiana’s Private Activity Volume Cap” submitted in connection with the bond issues described in Section 1.

SECTION 3: The allocations granted herein shall be valid and in full force and effect through December 31, 2023.

SECTION 4: This Order is effective upon signature and shall remain in effect until amended, modified, terminated, or rescinded by the Governor, or terminated by operation of law.

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of the State of Louisiana in the City of Baton Rouge, on this 5th day of October, 2023.

John Bel Edwards
Governor

ATTEST BY
THE GOVERNOR
R. Kyle Ardoin
Secretary of State
2310#067

Emergency Rules

DECLARATION OF EMERGENCY

Department of Culture, Recreation and Tourism Office of Tourism

Major Events Incentive Fund Program (LAC 25:V.Chapter 7)

In accordance with the emergency provisions of the Administrative Procedure Act, R.S. 49:962 et seq., and pursuant to the authority set forth in R.S. 51:1260, the Lieutenant Governor declares an emergency to exist and adopts by emergency process the attached Rule relative to the administration of the Major Events Incentive Fund program by the Louisiana Office of Tourism (LOT).

Of the many sectors that the pandemic has severely impacted, tourism is one of the most affected. To continually support the tourism industry and lay the groundwork for a strong and equitable industry and promote employment opportunities for all citizens throughout the state through the orderly but accelerated development of facilities for tourism, travel and hospitality, the legislator authorized the emergency enactment of the major events incentive fund program. This Emergency Rule shall be effective October 1, 2023, and shall remain in effect for a period of 180 days unless renewed by the office or until adoption of the final rules, whichever occurs first.

Title 25

CULTURAL RESOURCES

Part V. Office of Tourism

Chapter 7. Major Event Incentive Fund Program

§701. Purpose

A. Act 751 of the 2022 Regular Legislative Session transferred from the Department of Economic Development to Lt. Governor, Office of Cultural, Recreation and Tourism, (LOT) the administration of the Major Events Incentive Program. LOT is authorized by Louisiana Revised Statute 51:1260 (R.S. 51:1260) to provide financial incentives for events held in Louisiana. The program funding is dependent on whether the event meets the definition of a “qualified major event”. The mission of the LOT is to

1. promote and assist expansion of tourism and the tourism industry in Louisiana;
2. increase employment opportunities for all citizens throughout the state through the orderly but accelerated development of facilities for tourism, travel and hospitality;
3. invite visitors from this nation and foreign countries to visit Louisiana; and
4. conduct an ongoing promotional campaign of information, advertising and publicity to create and sustain a positive image of Louisiana as a vacation and conference destination.

B. The purpose of the Major Events Incentive Program (MEIP) is to provide grant funding to event producers and hosts, local organizing committees, endorsing municipalities, endorsing parishes, official tourism commissions, convention and visitors bureaus, and official destination

marketing organizations, for certain eligible costs associated with attracting, hosting and staging major events as specifically referenced in R.S. 51:1260, provided that, all statutory and administrative requirements are satisfied.

C. The application materials, program guidelines, and criteria set forth in this Part, which governs the MEIP, will be developed based on the enacting legislation for the program, Act 751 of the 2022 Regular Legislative Session.

D. This Rule shall have the force and effect of law on October 1, 2023, and will remain in effect for the maximum period allowed by the Administrative Procedure Act, unless renewed by the LOT, or until permanent rules are promulgated in accordance with law.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:1260

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation and Tourism, Office of Tourism, LR 49:

§703. Construction of Rules

A. The LOT shall administer the MEIP in a manner consistent with the requirements in R.S. 51:1260. R.S. 51:1260 shall control over any conflicting provision of these administrative rules.

B. The LOT may, in their sole discretion, seek administrative oversight through the Division of Administration or the legislative committee under its jurisdiction.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:1260

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation and Tourism, Office of Tourism, LR 49:

§705. Definitions

A. The following words and terms, when used in this chapter, shall have the following meanings, unless the context clearly indicates otherwise:

Applicant—an event producer, host, local organizing committees, endorsing municipality, endorsing parish, official tourism commissions, convention and visitor bureaus or official destination marketing organization.

Endorsing Municipality—either of the following:

a. a municipality that contains a site selected by a site selection organization for a major event and is a party to an event support contract;

b. a municipality that does not contain a site selected by a site selection organization for a qualified major event but is included in the market area for the event as designated by the secretary and is a party to an event support contract.

Endorsing Parish—either of the following:

a. a parish that contains a site selected by a site selection organization for a qualified major event and is a party to an event support contract;

b. a parish that does not contain a site selected by a site selection organization for a qualified major event but is included in the market area for the event as designated by the secretary and is a party to an event support contract.

Event Support Contract or *Event Contract*—a joint undertaking, a joint agreement, or a similar contract executed by a local organizing committee, an endorsing

municipality, an endorsing parish, official tourism commission, convention and visitors bureau, or official destination marketing organization, or any combination thereof, and a site selection organization.

Local Organizing Committee—an organization created or recognized as the official host entity sanctioned by an endorsing municipality or parish for a specified qualified major event.

Qualified Major Event—a National Football League Super Bowl, a National Collegiate Athletic Association Final Four tournament game, the National Basketball Association All-Star Game, the X Games, a National Collegiate Athletic Association Division I Football Bowl Subdivision postseason game, a college tournament or championship, the World Games, a national collegiate championship of an amateur sport sanctioned by the national governing body of the sport that is recognized by the United States Olympic Committee, an Olympic activity including a Junior or Senior activity, training program, or feeder program sanctioned by the United States Olympic Committee's Community Olympic Development Program, a mixed martial arts championship, the Breeders' Cup World Championships, a Bassmasters Classic, a National Motorsports race, the Red Bull Signature Series, a football kickoff game between two National Collegiate Athletic Association teams, a national championship or Olympic trials of an amateur or professional sport sanctioned by the national governing body of the sport, the United States Bowling Congress Tournament, the WWE WrestleMania, the Bayou Classic, the Essence Festival, the Zurich Classic or other PGA Tour event, a national military event, a national political convention of the Republican National Committee or of the Democratic National Committee, or any National Collegiate Athletic Association conference, convention, or conference media event, including conference media days. The term includes any activities related to or associated with a qualified major event.

Site Selection Organization—any of the following:

- a. the National Football League, the National Collegiate Athletic Association or any affiliated conference, or any team or teams thereof, the National Basketball Association, the International World Games Association, or the United States Olympic Committee;
- b. the national governing body of a sport that is recognized by the United States Olympic Committee;
- c. the National Thoroughbred Racing Association;
- d. the Republican National Committee or Democratic National Committee;
- e. the United States Bowling Congress;
- f. the national governing body of an organization not listed in Subparagraphs a-e of this Paragraph that schedules a qualified major event as defined in this Subsection.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:1260 (C).

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation and Tourism, Office of Tourism, LR 49:

§707. Eligibility

A. An applicant is eligible to receive funding through the Major Events Incentive Fund Program only if all the following apply:

1. the event is included in the definition of qualified major event.

2. a site selection organization or the event producer or host selects or has selected a site in Louisiana under either of the following circumstances:

a. after holding a bidding or invitation selection process involving required terms and conditions that could be fulfilled by sites not located in Louisiana.

b. as the sole site for the event or the sole site for the event in a region composed of Louisiana and one or more states.

3. The event is not held more than one time per year in Louisiana or any other state. The provisions of this Paragraph shall not apply to events occurring twice in one year due to a natural disaster, an act of God, force majeure, a catastrophe, pandemic, or such other occurrence which causes the event to move or be rescheduled.

4. Where applicable, the applicants must clearly state in their application that a similar proposal has been submitted for a separate grant program. If an applicant receives multiple sources of funding for the same project, they should clearly delineate which source, funds which activity, components, or phases.

5. Applicants are not allowed to receive multiple source funding for the same activity, component, phase or bill more than one grant or contract for the same activity for a qualifying event contained in their funding application. Additionally, the applicant may not receive funding for the same activity from other funding sources including MEIP, EIP or any other program funding administered by the Louisiana Department of Culture, Recreation and Tourism.

B. Only allowable expenses shall be paid or reimbursed through MEIP. Allowable expenses are determined by the LOT.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:1260 HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation and Tourism, Office of Tourism, LR 49:

§709. Application for Major Event Incentive Funding

A. LOT will provide a standard application to be used to apply for funding under this program. The application for the Major Event Incentive Funding program must contain, but is not limited to the following:

1. a complete and signed application identifying:
 - a. event name;
 - b. date or date range of the event;
 - c. type of event consistent with definition of major event;
 - d. event deliverables for the state or key performance indicators valuable to the state;
2. documentation from the endorsing municipality or endorsing parish signed by a person authorized to bind the municipality or parish;
3. signed letter, from the site selection organization or the event producer or host selecting the site in Louisiana, that includes all the information necessary to establish that the site was selected after holding a bidding or invitation selection process; or that the site is a sole site for the event;
4. an economic impact study, report or other data sufficient for the LOT to make the determination of the estimated incremental increase in tax revenue directly attributable to the preparation or presentation of the event, including any data for any related activities. The economic impact report or other data should:
 - a. identify the designated area of impact

b. state the anticipated total increment increase in the state sales and use receipts in the designated area.

c. state the anticipated total increment increase in excise tax receipts in the designated area.

d. clearly identified event activities proposed to be included in the funding and how the major event will have a significant positive impact in the state, such by showing:

i. projected attendance figures

ii. a description of the methodology that will be used for determining the total actual attendance at the event.

iii. the projected spending of attendees.

iv. any anticipated expenditure information related to the activity; and

v. how the events complement the best interest of the state;

5. The economic impact study submitted shall include a certification from the person(s) who prepared the study for the application, attesting to the accuracy of the information provided.

B. The applicant must include within a line item, the proposed activities and budget for advertising and promoting of LOT. The value of this line item shall be the lesser of \$750,000 or 10 percent of the grant award. The following non-exhaustive forms of advertising are acceptable:

1. placing of LOT's logo with click-thru link to <https://www.ExploreLouisiana.com>, on the home page of the event's website;

2. a 30-second commercial spot placement leading up to and during the event, if televised;

3. an advertisement printed in all associated publication of the event;

4. sponsorship mentioned during televised or audio interviews;

5. placement of logo in materials promoting the event on the:

a. official event website;

b. print ad placement advertising the event;

c. tv/radio advertisements promoting the event;

d. email correspondence to event participants;

e. billboards promoting the event;

6. passes to the event.

C. The advertising shall extend through the duration of the grant term, which will begin on the date of the grantee's award notice and ends no sooner than 30 days after the event.

D. LOT is not required to review or act on an application that does not contain all items in subsections A of this section.

E. LOT may issue guidance to establish, interpret, or clarify requirements for participation in the MEIP and compliance with any such guidance shall be required by the applicant. Any such guidance must be consistent with all applicable statutes and this chapter.

F. If LOT requires additional information from the applicant in order to review/approve the application, the applicant will be notified via email and must respond within 10 business days.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:1260.

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation and Tourism, Office of Tourism, LR 49:

§711. Application Deadline

A. An application for participation in the MEIP must be submitted not earlier than three years and not later than 270 days before the date the event begins. Should the submittal date fall on a weekend or legal holiday, applications must be received by the close of business on the following workday. Applications submitted outside this time frame may not be reviewed.

B. The application deadline stated in the section shall be waived until such time when the permanent rules are promulgated in accordance with law.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:1260

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation and Tourism, Office of Tourism, LR 49:

§713. Award amount

A. The award amount of the grant shall be based on the projected value of the proposed advertising and promotional expense along with the projected incremental increase to the state sales and use receipts and the excise tax receipts in the designated area for the event.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:1260

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation and Tourism, Office of Tourism, LR 49:

§715. Grant Award Notification

A. Not later than the 30th day after the date LOT receives a completed request for participation and all required information, LOT will make a determination of whether the event meets the eligibility requirements of Louisiana Revised Statutes 51:1260 and the amount of incremental increase in tax receipts that is directly attributable to the preparation or presentation of the event.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:1260

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation and Tourism, Office of Tourism, LR 49:

§717. Post Event Reporting

A. Within the time provided in the agreement, the applicant shall submit an economic analysis to the lieutenant governor which shall include the following:

1. the designated area which was impacted by the occurrence of the qualified major event;

2. the total incremental increase in state sales and use receipts in the designated area;

3. the total incremental increase in excise tax receipts in the designated area.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:1260

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation and Tourism, Office of Tourism, LR 49:

§719. Review

A. LOT shall determine, based on the reported information and the exercise of reasonable judgment, the incremental increase in receipts from excise and use tax directly attributable to the event. If the actual incremental increase in sales tax receipts is less than the projected incremental increase in such receipts, the final disbursement may be denied, reduced or considered in the applicant's future funding.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:1260.

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation and Tourism, Office of Tourism, LR 49:

§721. Recapture

A. Any funds found not to be properly spent in accordance with the terms of this chapter and regulations of the funding source may be subject to recapture or considered applicant's future funding.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:1260

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation and Tourism, Office of Tourism, LR 49:

Doug Bourgeois
Assistant Secretary

2310#001

DECLARATION OF EMERGENCY

**Department of Culture, Recreation and Tourism
Office of Tourism**

Non-Major Events Incentive Fund (LAC 25:V. Chapter 9)

In accordance with the emergency provisions of the Administrative Procedure Act, R.S. 49:962 et seq., and pursuant to the authority set forth in R.S. 51:1261 the Lieutenant Governor declares an emergency to exist and adopts by emergency process the attached Rule relative to the administration of the Non-Major Events Incentive Fund program by the Louisiana Office of Tourism (LOT).

Of the many sectors that the pandemic has severely impacted, tourism is one of the most affected. To continually support the tourism industry and lay the groundwork for a strong and equitable industry and promote employment opportunities for all citizens throughout the state through the orderly but accelerated development of facilities for tourism, travel and hospitality, the legislator authorized the emergency enactment of the major events incentive fund program. This Emergency Rule shall be effective October 1, 2023, and shall remain in effect for a period of 180 days unless renewed by the office or until adoption of the final rules, whichever occurs first.

Title 25

CULTURAL RESOURCES

Part V. Office of Tourism

Chapter 9. Event Incentive Fund Program

§901. Purpose

A. Act 751 of the 2022 Regular Legislative Session transferred from the Department of Economic Development to Lt. Governor Office of Cultural, Recreation and Tourism, (LOT) the administration of the Events Incentive Fund. LOT is authorized by Louisiana Revised Statute 51:1261 (R.S. 51:1261) to provide financial incentives for events held in Louisiana. In accordance with the emergency provisions of the Administrative Procedure Act, R.S. 49:962 et seq., and pursuant to the authority set forth in Act 751, the Lieutenant Governor declares an emergency to exist and adopts by emergency process the attached Rule relative to the administration of the Events Incentive Fund ("Fund") by the Louisiana Office of Tourism (LOT). The mission of the LOT is to:

1. promote and assist expansion of tourism and the tourism industry in Louisiana;

2. increase employment opportunities for all citizens throughout the state through the orderly but accelerated development of facilities for tourism, travel and hospitality;

3. invite visitors from this nation and foreign countries to visit Louisiana; and

4. conduct an ongoing promotional campaign of information, advertising and publicity to create and sustain a positive image and understanding of Louisiana.

B. The purpose of the Events Incentive Program (EIP) is for attracting, planning, marketing, and conducting events.

C. The application materials, program guidelines, and criteria set forth in this Part, which governs the EIP, will be developed based on the enacting legislation for the program, Act 751 of the 2022 Regular Legislative Session.

D. This Rule shall have the force and effect of law on October 1, 2023 and will remain in effect for the maximum period allowed by the Administrative Procedure Act, unless renewed by the LOT, or until permanent rules are promulgated in accordance with law.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:1261

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation and Tourism, Office of Tourism, LR 49:

§903. Construction of Rules

A. The LOT shall administer the fund in a manner consistent with the requirements in R.S. 51:1261. R.S. 51:1261 shall control over any conflicting provision of these administrative rules.

B. The LOT may, in their sole discretion, seek administrative oversight through the Division of Administration or the legislative committee under its jurisdiction.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:1261

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation and Tourism, Office of Tourism, LR 49:

§905. Definitions

A. The following words and terms, when used in this chapter, shall have the following meanings, unless the context clearly indicates otherwise.

Applicant—a municipality, parish, official tourism commissions or convention and visitor bureau, official destination marketing organization and nonprofit corporation.

Official Destination Marketing Organization—the political subdivision of the state authorized to provide destination marketing and management services for a jurisdiction by promoting a town, city, region, or parish in order to increase the number of visitors.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:1261.

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation and Tourism, Office of Tourism, LR 49: 49:

§907. Eligibility

A. An applicant is eligible to receive funding through the Events Incentive Fund only if all the following apply:

1. The event is not a qualified major event as defined by R.S. 51:1260.

2. The event is not held more than one time per year in Louisiana or any other state. The provisions of this Paragraph shall not apply to events occurring twice in one year due to a natural disaster, an act of God, force majeure, a

catastrophe, pandemic, or such other occurrence which causes the event to move or be rescheduled.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:1261
HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation and Tourism, Office of Tourism, LR 49:

§909. Application for Event Incentive Funding

A. LOT will provide a standard application process to be used to apply for funding under this program.

B. The application for the Event Incentive Funding must contain, but is not limited to the following:

1. A complete and signed application with required documentation.

2. Required documentation shall identify:

- a. event name;
- b. date or date range of the event;
- c. the total anticipated cost of the event;
- d. the amount and anticipated sources of funding for the event;
- e. an economic analysis indicates the event has an anticipated impact of \$350,000 or greater to the state;
- f. a proposal for the utilization of grant funding.

C. The event must be co-branded. The applicant must include within the proposal a line item, identifying the activity and budget for advertising and promoting of LOT. The value of this line item shall be a minimum of 10% of the grant award. The following non-exhaustive forms of advertising are acceptable:

- 1. placing of LOT's logo with click-thru link to <https://www.ExploreLouisiana.com>, on the home page of the event's website;
- 2. a 30-second commercial spot placement leading up to and during the event, if televised;
- 3. an advertisement printed in all associated publications of the event;
- 4. sponsorship mentioned during televised or audio interviews;
- 5. placement of logo in materials promoting the event on the:
 - a. official event website;
 - b. print ad placement advertising the event;
 - c. tv/radio advertisements promoting the event;
 - d. email correspondence to event participants;
 - e. billboards promoting the event.

D. The advertising shall extend through the duration of the grant term, which will begin on the date of the grantee's award notice and ends no sooner than 30 days after the event.

E. If LOT requires additional information from the applicant in order to review/approve the application, the applicant will be notified via email and must respond within 10 business days.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:1261.

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation and Tourism, Office of Tourism, LR 49: 49:

§911. Application Deadline

A. The application and required documentation should be received no later than one hundred and eighty days prior to the event.

B. Applications submitted outside this time limit may not be reviewed.

C. The application deadline stated in the section shall be waived until such time when the permanent rules are promulgated in accordance with law.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:1261.

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation and Tourism, Office of Tourism, LR 49: 49:

§913. Award amount

A. A municipality, parish, or nonprofit corporation hosting the event shall be eligible to receive up to twenty-five percent of the total cost incurred by the entity for the event, not to exceed two hundred fifty thousand dollars per grant.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:1261.

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation and Tourism, Office of Tourism, LR 49: 49:

§915. Post Event Reporting

A. Within the time provided in the agreement, the applicant shall submit a statement to the lieutenant governor which shall include the following:

- 1. the designated targeted area of the event;
- 2. to the extent possible, the economic impact of the event to the state.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:1261.

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation and Tourism, Office of Tourism, LR 49:

§917. Recapture

A. Any funds found not to be properly spent in accordance with the terms of this chapter and regulations of the funding source may be subject to recapture or considered applicant's future funding.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:1261.

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation and Tourism, Office of Tourism, LR 49:

Doug Bourgeois
Assistant Secretary

2310#002

DECLARATION OF EMERGENCY

**Department of Health
Bureau of Health Services Financing**

Medical Transportation Program
Emergency Medical Transportation
(LAC 50:XXVII.Chapter 3)

The Department of Health, Bureau of Health Services Financing amends LAC 50: XXVII.Chapter 3 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Emergency Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:962, and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

The U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS) required reimbursement for emergency ambulance services to

transition from the Full Medicaid Pricing program to an approved federal supplemental payment program by July 1, 2023. In compliance with CMS requirements, the Department of Health, Bureau of Health Services Financing promulgated an Emergency Rule, which amended the provisions governing reimbursement in the Medical Transportation Program in order to align the reimbursement rates established for emergency ambulance services and providers with current practice for Medicaid managed care and fee-for-service (*Louisiana Register*, Volume 49, Number 5). Upon further discussion with various stakeholders, the department has now determined that it is necessary to amend the provisions of the July 1, 2023 Emergency Rule.

This action is being taken to avoid sanctions or penalties by CMS.

Effective September 11, 2023, the Department of Health, Bureau of Health Services Financing amends the July 1, 2023 Emergency Rule which amended the provisions governing reimbursement in the Medical Transportation Program in order to align the reimbursement rates established for emergency ambulance services and providers with current practice for Medicaid managed care and fee-for-service.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part XXVII. Medical Transportation Program

Chapter 3. Emergency Medical Transportation

Subchapter A. Reserved.

Subchapter B. Ground Transportation

§325. Reimbursement

A. The Medicaid reimbursement for ground ambulance services is the rate established in the state fee schedule for emergency ambulance transport, basic life support, advanced life support and mileage, oxygen, intravenous fluids, and disposable supplies administered during the emergency ambulance transport minus the amount paid by any liable third party coverage.

B. - J. ...

K. Effective for dates of service on or after July 1, 2023, the reimbursement rates for emergency ground ambulance transportation services shall be reimbursed based on the Louisiana Medicaid fee schedule.

EXCEPTION: Except as otherwise noted in the plan, state-developed fee schedule rates are established separately for governmental, New Orleans-based governmental, and private providers of ambulance transportation services to account for cost variability across these provider types and to maintain access to care through alignment with historic payment levels.

1. The agency's fee schedule rate, set as of July 1, 2023, is effective for services provided on or after that date. All rates are published on the agency's website at: <https://www.lamedicaid.com>.

2. The fee schedule was established as a function of historical rates in effect as of January 1, 2023 plus an enhancement which was calculated to achieve total fee schedule reimbursement as a percentage of average commercial rates (ACR), with the clarifications listed within Subparagraph a through c below:

a. governmental ambulance providers include those ambulance providers who are owned or operated by a public organization such as state, federal, parish, or city entities;

b. New Orleans-based governmental ambulance providers include ambulance providers located within the city of New Orleans; and

c. private ambulance transportation providers include corporations, limited liability companies, partnerships, or sole proprietors. Private providers must comply with all state laws and the regulations of any governing state agency, commission, or local entity to which they are subject as a condition of enrollment and continued participation in the Medicaid program.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:878 (May 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 36:1248 (June 2010), LR 36:2564 (November 2010), LR 37:3029 (October 2011), LR 39:1285 (May 2013), LR 40:1379 (July 2014), amended by the Department of Health, Bureau of Health Services Financing, LR 49:

§327. Supplemental Payments for Ambulance

Providers

A. Effective for dates of service on or after September 20, 2011, quarterly supplemental payments shall be issued to qualifying ambulance providers for emergency medical transportation services rendered during the quarter if the department has received an appropriation from the legislature for these payments.

B. - E.7. ...

8. The department will reimburse providers based on the following criteria.

a. ...

b. For all other ambulance service providers identified in Paragraph E.1, reimbursement will be up to 80 percent of the provider's average commercial rate calculated in Paragraph E.7.

F. - F.2. ...

G. The supplemental payment will be made effective for emergency medical transportation provided on or after September 20, 2011. This payment is based on the average amount that would have been paid at the equivalent community rate. After the initial calculation for fiscal year 2011-2012, the department will rebase the equivalent community rate using adjudicated claims data for services from the most recently completed fiscal year. This calculation may be made annually, but shall be made no less than every three years.

H. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 40:1530 (August 2014), amended by the Department of Health, Bureau of Health Services Financing, LR 49:

§331. Enhanced Reimbursements for Qualifying

Emergency Ground Ambulance Service

Providers

A. Emergency Medical Transportation

1. Qualifying emergency ambulance service providers assessed a fee as outlined in LAC 48:I.4001.E.1.a-b shall receive enhanced reimbursement for emergency ground ambulance transportation services rendered during the

quarter through the Supplemental Payment Program described in the Medicaid State Plan if the department has received an appropriation from the legislature for these payments.

2. Effective for dates of service on or after July 1, 2019, qualifying emergency ambulance service providers assessed a fee as outlined in LAC 48:I.4001.E.1.a-d shall receive enhanced reimbursement for non-emergency ground ambulance transportation services rendered during the quarter through the Supplemental Payment Program described in the Medicaid State Plan if the department has received an appropriation from the legislature for these payments.

B. - B.4. ...

C. Payment Methodology

1. Payment will include non-emergency ground ambulance services after July 1, 2019. The enhanced reimbursement to each qualifying emergency ground ambulance service provider shall not exceed the sum of the difference between the Medicaid payments otherwise made to these providers for the provision of emergency and non-emergency ground ambulance transportation services and the average amount that would have been paid at the equivalent community rate.

2. - 3.h. ...

D. Effective Date of Payment

1. The enhanced reimbursement payment shall be made effective for emergency ground ambulance transportation services provided on or after August 1, 2016, and for non-emergency ground transportation services provided after July 1, 2019. This payment is based on the average amount that would have been paid at the equivalent community rate.

D.2. - E.1. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 42:1890 (November 2016), amended LR 45:1598 (November 2019), LR 49:

Subchapter C. Aircraft Transportation

§351. Standards for Participation

A. Rotor winged (helicopters) and fixed winged emergency aircraft must be certified by the Department of Health, Bureau of Health Services Financing in order to receive Medicaid reimbursement. All air ambulance services must be provided in accordance with state laws and regulations governing the administration of these services.

B. ...

C. Prior Approval. Prior approval shall not be required for emergency air ambulance transportation services, including mileage. Approval shall be done during post payment review and shall not be completed prior to service delivery. Claims for payment of emergency air ambulance transportation services are received and reviewed retrospectively. The clinical documentation for each emergency air ambulance transportation service shall not be required for submission concurrent with the claim. If required, clinical documentation shall be required post claim submission.

1. Air ambulance claims will be reviewed and a determination will be made based on the following requirements. Air ambulance services are covered only if:

a. speedy admission of the beneficiary is essential and the point of pick-up of the beneficiary is inaccessible by a land vehicle; or

b. great distance or other obstacles are involved in getting the beneficiary to the nearest hospital with appropriate services.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 35:70 (January 2009), amended by the Department of Health, Bureau of Health Services Financing, LR 49:

§353. Reimbursement

A. - B. ...

C. If a ground ambulance must be used for part of the transport, the ground ambulance provider will be reimbursed separately according to the provisions governing emergency ground transportation.

D. - I.2. ...

J. The reimbursement rates for emergency and non-emergency, rotor winged and fixed winged air ambulance transportation services shall be reimbursed based on the Louisiana Medicaid fee schedule. These rates include both in state and out-of-state air ambulance transportation. The agency's fee schedule rate was set as of January 1, 2022 and is effective for services provided on or after that date. All rates are published on the agency's website at: <https://www.lamedicaid.com>.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 35:70 (January 2009), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 36:2564 (November 2010), amended LR 37:3029 (October 2011), LR 39:1285 (May 2013), LR 40:1379 (July 2014), LR 42:277 (February 2016), amended by the Department of Health, Bureau of Health Service Financing, LR 49:

§355. Supplemental Payments for Ambulance Providers

A. Effective for dates of service on or after September 20, 2011, quarterly supplemental payments shall be issued to qualifying ambulance providers for emergency medical air transportation services rendered during the quarter if the department has received an appropriation from the legislature for these payments.

B. - E.7. ...

8. The department will reimburse providers based on the following criteria.

a. ...

b. For all other ambulance service providers identified in E.1, reimbursement will be up to 80 percent of the provider's average commercial rate calculated in Paragraph E.7.

F. - F.2. ...

G. The supplemental payment will be made effective for air ambulance services provided on or after September 20, 2011. This payment is based on the average amount that would have been paid at the equivalent community rate. After the initial calculation for fiscal year 2011-2012, the department will rebase the equivalent community rate using adjudicated claims data for services from the most recently

completed fiscal year. This calculation may be made annually, but shall not be made less often than every three years.

H. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 40:1531 (August 2014), amended by the Department of Health, Bureau of Health Services Financing, LR 49:

Implementation of the provisions of this Rule may be contingent upon the approval of the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS), if it is determined that submission to CMS for review and approval is required.

Public Comments

Kimberly Sullivan, Bureau of Health Services Financing, is responsible for responding to inquiries regarding this Emergency Rule. A copy of this Emergency Rule is available for review by interested parties at parish Medicaid offices.

Stephen R. Russo, JD
Secretary

2309#003

DECLARATION OF EMERGENCY

**Department of Health
Bureau of Health Services Financing**

Medical Transportation Program
Non-Emergency Medical Transportation
American Rescue Plan Act
(LAC 50:XXVII.531)

The Department of Health, Bureau of Health Services Financing amends LAC 50:XXVII.531 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Emergency Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:962, and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

The U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS) approved the use of funds provided under the American Rescue Plan Act of 2021 (ARPA) for bonus payments to providers of non-emergency medical transportation (NEMT) services. The Department of Health, Bureau of Health Services Financing adopted provisions in the Medical Transportation Program in order to establish guidelines for the administration and distribution of ARPA bonus payment funds to eligible NEMT providers (*Louisiana Register*, Volume 49, Number 5). The department now amends the provisions governing ARPA bonus payments in order to establish the guidelines that will be utilized to oversee the administration and distribution of ARPA bonus payment funds to eligible NEMT providers by the Medicaid managed care organizations.

This action is being taken to promote the health and welfare of Medicaid beneficiaries by ensuring continued provider participation in the Medicaid program. It is estimated that implementation of this Emergency Rule will increase expenditures in the Medicaid Program by approximately \$2,800,584 for state fiscal year 2023-2024.

Effective December 1, 2023, the Department of Health, Bureau of Health Services Financing amends the provisions governing ARPA bonus payments in order to establish the guidelines that will be utilized to oversee the administration and distribution of ARPA bonus payment funds to eligible NEMT providers by the Medicaid managed care organizations.

Title 50

PUBLIC HEALTH—GENERAL

Part XXVII. Medical Transportation Program

**Chapter 5. Non-Emergency Medical Transportation
Subchapter E. Non-Emergency Medical Transportation
American Rescue Plan Act**

§531. Non-Emergency Medical Transportation Bonus Payments

A. ...

1. Non-emergency medical transportation (NEMT) providers that are fully credentialed in the Medicaid Program may be eligible to receive a bonus payment under the Department of Health’s (LDH) American Rescue Plan Act (ARPA) NEMT Program until the program’s federal funds are exhausted or through the conclusion of the program.

2. Fully credentialed NEMT providers who meet all eligibility requirements are entitled to a monthly disbursement of \$500 per vehicle, for up to three vehicles per month, totaling a maximum payment of \$1,500 per month per transportation provider. The managed care organization (MCO) will determine eligibility for monthly payments based on the NEMT provider’s ongoing compliance for all provider, driver, and vehicle requirements set forth by the Medicaid Program and the LDH ARPA NEMT Program.

3. ...

4. The MCO will provide a weekly report to LDH containing all newly acquired NEMT providers. LDH will assign each active NEMT provider to an affiliated MCO.

5. The MCO will administer all payments for the LDH ARPA NEMT Program.

a. - e. Repealed.

6. In order to receive payments under the LDH ARPA NEMT Program, the NEMT provider shall do the following:

a. accede to all provisions of the LDH ARPA NEMT Program and execute a contractual agreement with the MCO, solely for the distribution of ARPA funds;

b. maintain ongoing compliance for all provider, driver, and vehicle requirements set forth by the Medicaid Program;

c. submit reporting and credentialing documentation for all drivers and vehicles within their individual company used for NEMT services on a monthly basis. Failure to meet both LDH and the MCO’s time

requirements shall result in loss of the monthly bonus payment; and

d. submit a monthly attestation to the MCO which certifies the accuracy of the submitted supporting and credentialing documentation.

7. NEMT services are ineligible and shall not be submitted as a completed service if the status of the NEMT service rendered results in one of the following:

- a. the provider is a no-show;
- b. no NEMT vehicle is available;
- c. no NEMT driver is available; or
- d. the NEMT provider is late which causes the beneficiary to miss his or her scheduled Medicaid covered service.

B. - B.1. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 49:877 (May 2023), amended by the Department of Health, Bureau of Health Services Financing, LR 50:

Implementation of the provisions of this Rule may be contingent upon the approval of the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS), if it is determined that submission to CMS for review and approval is required.

Public Comments

Kimberly Sullivan, JD, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030 is responsible for responding to inquiries regarding this Emergency Rule. A copy of this Emergency Rule is available for review by interested parties at parish Medicaid offices.

Stephen R. Russo, JD
Secretary

2310#043

DECLARATION OF EMERGENCY

Department of Health Bureau of Health Services Financing

Nursing Facilities—Optional State Assessment
(LAC 50:II.10123 and 20001)

The Department of Health, Bureau of Health Services Financing amends LAC 50:II.10123 and §20001 in the Medical Assistance Program as authorized by R.S. 36:254 and R.S. 46:2742 and pursuant to Title XIX of the Social Security Act. This Emergency Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:962 and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

Due to the Coronavirus Disease 2019 (COVID-19) public health emergency, the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS) delayed the requirement for states to transition from the current resource utilization group (RUG-III/RUG-IV) case-mix classification model used under the Medicare skilled nursing facility prospective payment system to the patient driven payment model until October 1,

2019. In compliance with CMS requirements, the Department of Health, Bureau of Health Services Financing amends the provisions governing the standards for payment and reimbursement for nursing facilities in order to implement the patient driven payment model for case-mix classification and mandate use of the optional state assessment item set.

This action is being taken to avoid federal sanctions or penalties. It is anticipated that implementation of this Emergency Rule will have no fiscal impact to the Medicaid program for state fiscal year 2023-2024.

Effective October 1, 2023, the Department of Health, Bureau of Health Services Financing amends the provisions governing the standards for payment and reimbursement for nursing facilities in order to implement the patient driven payment model for case-mix classification and mandate use of the optional state assessment item set.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part II. Nursing Facilities

Subpart 3. Standards for Payment

Chapter 101. Standards for Payment for Nursing Facilities

Subchapter D. Resident Care Services

§10123. Comprehensive Assessment

A. - G.4.c. ...

H. Effective for assessments with assessment reference dates of October 1, 2023 and after, the department mandates the use of the optional state assessment (OSA) item set. The OSA item set is required to be completed in conjunction with each assessment and at each assessment interval detailed within this Section. The OSA item set must have an assessment reference date that is identical to that of the assessment it was performed in conjunction with.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:153 and R.S. 46:2742.

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 by the Department of Health, Bureau of Health Services Financing, LR 46:695 (May 2020), LR 46:1684 (December 2020), LR 50:

Subpart 5. Reimbursement

Chapter 200. Reimbursement Methodology

§20001. General Provisions

A. Definitions

* * *

Minimum Data Set (MDS)—a core set of screening and assessment data, including common definitions and coding categories that form the foundation of the comprehensive assessment for all residents of long-term care nursing facility providers certified to participate in the Medicaid Program. The items in the MDS standardize communication about resident problems, strengths, and conditions within nursing facility providers, between nursing facility providers, and between nursing facility providers and outside agencies. The Louisiana system will employ the current required MDS assessment as approved by the Centers for Medicare and Medicaid Services (CMS), or as mandated by the Department of Health through the use of the optional state assessment (OSA).

* * *

Optional State Assessment (OSA)—assessment required by Louisiana Medicaid to report on Medicaid-covered stays.

Allows nursing facility providers using RUG-III or RUG-IV models as the basis for Medicaid payment to do so until the legacy payment model (RUG-III) ends.

* * *

Patient Driven Payment Model (PDPM)—the proposed new Medicare payment rule for skilled nursing facilities. The PDPM identifies and adjusts different case-mix components for the varied needs and characteristics of a resident’s care and then combines these with a non-case-mix component to determine the full skilled nursing facilities (SNF) prospective payment system (PPS) per diem rate for that resident.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254, R.S. 46:2742, and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 28:1473 (June 2002), repromulgated LR 28:1790 (August 2002), amended LR 28:2537 (December 2002), LR 32:2262 (December 2006), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:825 (March 2012), amended by the Department of Health, Bureau of Health Services Financing, LR 42:1522 (September 2016), LR 43:525 (March 2017), LR 43:2187 (November 2017), LR 46:695 (May 2020), LR 46:1684 (December 2020), LR 50:

Implementation of the provisions of this Rule may be contingent upon the approval of the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS), if it is determined that submission to CMS for review and approval is required.

Kimberly Sullivan, JD, Bureau of Health Services Financing, is responsible for responding to inquiries regarding this Emergency Rule. A copy of this Emergency Rule is available for review by interested parties at parish Medicaid offices.

Stephen R. Russo, JD
Secretary

2310#010

DECLARATION OF EMERGENCY

**Department of Health
Bureau of Health Services Financing
and
Office for Citizens with Developmental Disabilities**

**Targeted Case Management and Home and Community-
Based Services Waivers
(LAC 50:XV.Subpart 7 and XXI.Subparts 5, 9, 11, and 13)**

The Department of Health, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities amend LAC 50:XV.Subpart 7 and XXI.Subparts 5, 9, 11, and 13 as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act.

The Department of Health, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities promulgated Emergency Rules which made allowances for early and periodic screening, diagnosis and treatment (EPSDT) targeted case management (TCM) services and relaxed provisions governing certain home and community-based services (HCBS) waivers throughout the duration of the Coronavirus Disease 2019 (COVID-19)

public health emergency (PHE) (*Louisiana Register*, Volume 46, Numbers 4, 11, and 12). The U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS) permits states to temporarily extend these services beyond the May 11, 2023 COVID-19 PHE end date. As such, the department promulgated an Emergency Rule which amended the provisions of LAC 50:XV.Subpart 7 and LAC 50:XXI.Subparts 5, 9, 11 and 13 governing these services in order to align with the CMS extension dates (*Louisiana Register*, Volume 49, Number 5).

This Emergency Rule is being promulgated to continue the provisions of the May 12, 2023 Emergency Rule, and shall be in effect for the maximum period allowed under the Act or until end of the temporary service extension granted by CMS, whichever occurs first.

Effective November 9, 2023, the Department of Health, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities continue the provisions of the May 12, 2023 Emergency Rule which amended LAC 50:XV.Subpart 7 and XXI.Subparts 5, 9, 11, and 13 in order to align the provisions governing EPSDT TCM services and certain HCBS waivers with the CMS extension dates for these services.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part XV. Services for Special Populations

Subpart 7. Targeted Case Management

With approval from the Centers for Medicare and Medicaid Services (CMS) as applicable, the state makes the following allowances for early and periodic screening, diagnostic and treatment targeted case management services until November 11, 2023:

Case managers may utilize telephone contacts (i.e., video or voice calls) in place of any required face-to-face contacts; and

Case managers may complete initial assessments, quarterly reassessments, and annual reassessments without signatures from recipients.

**Part XXI. Home and Community-Based Services
Waivers**

Subpart 5. Supports Waiver

With approval from the Centers for Medicare and Medicaid Services (CMS) as applicable, the following provisions of the Supports Waiver are relaxed until November 11, 2023:

Allow up to a total of 20 hours a week of respite services and or habilitation services in lieu of day habilitation or vocational services for these programs that have been closed;

Allow participants and direct support workers (DSWs) to live in the same setting so that the recipient may receive necessary respite and habilitation services;

Allow legally responsible relatives to be temporary respite or habilitation direct support, if necessary, in the absence of DSW care;

Documentation of services rendered is required and will be verified by the support coordination agency; Allow quarterly visits to be conducted via phone contact, FaceTime, or skype;

Monthly phone contacts will still occur;

Allow support coordinators to substitute phone contact, FaceTime on computers, or Skype, in lieu of home visits for

individuals at risk of exposure who are medically fragile, elderly, both or who have medically fragile caregivers;

Allow assessments to be conducted via FaceTime, Skype, or phone call to avoid delay in services;

Allow the comprehensive plan of care by the support coordinator to be conducted via FaceTime, Skype, or by phone to avoid a delay in services; and

Allow the home certification visit by the Office for Citizens with Developmental Disabilities (OCDD) or its designee to be conducted via FaceTime, Skype, or phone call to avoid a delay in services.

LDH retains the right to recoup all or a portion of retainer payments from providers who furlough or lay off staff or fail to reopen.

LDH may review cost reports and other documentation of expenses in making this determination.

Subpart 9. Children's Choice Waiver

With approval from the Centers for Medicare and Medicaid Services (CMS) as applicable, the following provisions of the Children's Choice Waiver are relaxed until November 11, 2023:

Allow expansion of the current Children's Choice Waiver cap to allow for an additional 20 hours per week of family support services as needed for health and safety due to school closures;

Allow participants and family support (FS) direct support workers (DSWs) to live in the same setting so that the participant may continue to receive services;

Allow legally responsible relatives to be temporary FS DSWs during the declared emergency, if necessary, in the absence of DSW care;

Documentation of services rendered is required and will be verified by the support coordination agency;

Reduce the minimum age of DSWs to 16 years of age, if necessary, in an emergency. Emergency being defined as no other staff or supports available;

Remove the requirement for DSWs to have a high school diploma or equivalent;

Allow quarterly visits to be conducted via phone contact versus face-to-face contact;

Monthly phone contacts will still occur;

Allow support coordinators to substitute phone contact, FaceTime on computers, or Skype in lieu of home visits for individuals at risk of exposure who are medically fragile, elderly, both, or who have medically fragile caregivers;

Allow assessments to be conducted via FaceTime, Skype, or phone call to avoid delay in services;

Allow the comprehensive plan of care by the support coordinator to be conducted via FaceTime, Skype, or phone to avoid a delay in services; and

Allow the home certification visit by the Office for Citizens with Developmental Disabilities (OCDD) or its designee to be conducted via FaceTime, Skype, or phone to avoid a delay in services.

Subpart 11. New Opportunities Waiver

With approval from the Centers for Medicare and Medicaid Services (CMS) as applicable, the following provisions of the New Opportunities Waiver are relaxed until November 11, 2023:

Allow conversion of day habilitation and vocational service program hours to individual and family support (IFS) for participants whose day habilitation and/or vocational programs have closed;

Allow participants and individual and family support (IFS) direct support workers (DSWs) to live in the same setting so that the participant may continue to receive services;

Allow legally responsible relatives to be temporary IFS DSWs during the declared emergency, if necessary, in the absence of DSW care;

Documentation of services rendered is required and will be verified by the support coordination agency;

Reduce the minimum age of DSWs to 16 years of age, if necessary, in an emergency. Emergency being defined as no other staff or supports available;

Remove the requirement for DSWs to have a high school diploma or equivalent;

Allow quarterly visits to be conducted via phone contact versus face-to-face contact;

Monthly phone contacts will still occur.

Allow the home certification visit by the Office for Citizens with Developmental Disabilities (OCDD) or its designee to be conducted via FaceTime, Skype, or phone to avoid a delay in services.

LDH retains the right to recoup all or a portion of retainer payments from providers who furlough or lay off staff or fail to reopen. LDH may review cost reports and other documentation of expenses in making this determination.

Subpart 13. Residential Options Waiver

With approval from the Centers for Medicare and Medicaid Services (CMS) as applicable, the following provisions of the Residential Options Waiver are relaxed until November 11, 2023:

Allow sharing of direct support staff when necessary;

Allow conversion of day habilitation and vocational services to community living supports (CLS) for participants whose day habilitation and or vocational program have been closed;

Allow participants and community living support (CLS) direct support workers (DSWs) to live in the same setting so that the participant may continue to receive services;

Documentation of services rendered is required and will be verified by the support coordination agency;

Allow legally responsible relatives to be temporary community living support (CLS) DSWs during the declared emergency if necessary in the absence of DSW care;

Reduce the minimum age of DSWs to 16 years of age, if necessary, in an emergency. Emergency being defined as no other staff or supports available;

Remove the requirement for DSWs to have a high school diploma or equivalent;

Allow quarterly visits to be conducted via phone contact versus face-to-face contact;

Monthly phone contacts will still occur;

Allow support coordinators to substitute phone contact, FaceTime on computers, or Skype in lieu of home visits for individuals at risk of exposure who are medically fragile, elderly, or both or who have medically fragile caregivers;

Allow assessments to be conducted via FaceTime, Skype, or phone call to avoid a delay in services;

Allow the comprehensive plan of care by the support coordinator to be conducted via FaceTime, Skype, or by phone to avoid a delay in services;

Allow the home certification visit by the Office for Citizens with Developmental Disabilities (OCDD) or its designee to be conducted via FaceTime, Skype, or phone to avoid delay in services; and

If a provider had not already received revenues in excess of the pre-public health emergency level but receipt of the retainer payment in addition to those prior sources of funding results in the provider exceeding the pre-public health emergency level, any retainer payment amounts in excess may be recouped.

LDH retains the right to recoup all or a portion of retainer payments from providers who furlough or lay off staff or fail to reopen. LDH may review cost reports and other documentation of expenses in making this determination.

Implementation of the provisions of this Rule may be contingent upon the approval of the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS), if it is determined that submission to CMS for review and approval is required.

Public Comments

Kimberly Sullivan, JD, Bureau of Health Services Financing, is responsible for responding to inquiries regarding this Emergency Rule. A copy of this Emergency Rule is available for review by interested parties at parish Medicaid offices.

Stephen R. Russo, JD
Secretary

2310#044

DECLARATION OF EMERGENCY

Department of Revenue Office of Alcohol and Tobacco Control

Tobacco Permits
(LAC 55:VII.3101-3123)

The Louisiana Department of Revenue, Office of Alcohol and Tobacco Control (ATC), pursuant to the rulemaking authority granted by R.S. 26:922 and R.S. 26:926 and the emergency rulemaking authority granted by R.S. 49:962 of the Administrative Procedure Act hereby amend and adopt LAC 55:VII.3101 and 3115-3123 related to the sale, certification of vapor and alternative nicotine products, and the VAPE Directory for the protection of public health. The Emergency Rule, effective September 29, 2023, will remain in effect for a period of 180 days.

Pursuant to Act 414 of the 2023 Regular Session of the Louisiana Legislature, the agency finds it necessary to promulgate an Emergency Rule to prevent imminent peril to the public health, safety, or welfare due to the risk of online sales and sale of products not in compliance federal and state laws and requirements. Act 414 provides a certification process for manufactures of vapor and alternative nicotine whereby any product not certified before November 1, 2023 will be prohibited for sale in Louisiana that are currently offered and sold by licensed retailers and wholesalers. The

rules provide the mechanism to certify products, the renewal and VAPE Directory that is required to be posted in order to remove unapproved and unsafe products from the stream of commerce.

The Emergency Rule shall have the force and effect of law upon signature and will remain in effect for a maximum of 180 days, unless renewed by the commissioner of alcohol and tobacco control or until permanent rules are promulgated in accordance with law, whichever occurs first.

Title 55

PUBLIC SAFETY

Part VII. Alcohol and Tobacco Control

Subpart 2. Tobacco

Chapter 31. Tobacco Permits

§3101. Definitions

A. ...

Alternative Nicotine Product (ANP)—any noncombustible product containing nicotine that is intended for human consumption, whether chewed, absorbed, dissolved, or ingested by any other means.

a. Alternative nicotine product does not include any of the following:

i. tobacco product;

ii. vapor product;

iii. product that is a drug pursuant to 21 U.S.C. 321(g)(1);

iv. device pursuant to 21 U.S.C. 321(h);

v. combination product described in 21 U.S.C. 353(g);

b. An alternative nicotine product may be referred to as the acronym ANP.

Product Offered for Sale—each unique product identified by brand name and SKU code constitutes a separate product offered for sale in this state.

Stock Keeping Unit (SKU)—unique code per product consisting of letters and numbers that identify characteristics about each product such as by manufacturer, brand, size, or other similar information.

Third Party Delivery Agent—the mailing carrier service retained by the seller to transport and deliver by mail vapor products or alternative nicotine products to the recipient. Mailing carrier services may include but is not limited to Fed Ex, UPS, DHL, and other similar mailing carriers.

V.A.P.E. Directory—the directory compiled by the ATC pursuant to R.S. 26:926 which lists alternative nicotine products and vapor products approved for wholesale distribution or retail sale in the state. VAPE is an acronym that stands for vapor and alternative nicotine products and electronic cigarettes.

Vapor Product—any noncombustible product containing nicotine or other substances that employs a heating element, power source, electronic circuit, or other electronic, chemical or mechanical means, regardless of shape or size, that can be used to produce vapor from nicotine or other substances. Vapor product includes any electronic cigarette, electronic cigar, electronic cigarillo, electronic pipe, or similar product or device and any vapor cartridge or other container of nicotine in a solution or other form that is intended to be used with or in an electronic cigarette, electronic cigar, electronic cigarillo, electronic pipe, or similar product or device. Vapor product does not include any of the following:

- a. product that is a drug pursuant to 21 U.S.C. 321(g)(1);
- b. device pursuant to 21 U.S.C. 321(h);
- c. combination product described in 21 U.S.C. 353(g).

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:953(B), R.S. 26:922 and R.S. 26:926.

HISTORICAL NOTE: Promulgated by the Department of Revenue, Office of Alcohol and Tobacco Control, LR 24:1320 (July 1998), amended LR 38:145 (January 2012), amended LR 40:1114 (June 2014), amended by the Department of Revenue, Office of Alcohol and Tobacco Control, LR 49:

§3115. Sales, Online Sale, Age Verification Requirements, and Delivery

A. Sales. Each licensed seller is responsible for ensuring that all sales of tobacco products, vapor products or ANP to any person shall comply with the following requirements.

1. No licensed seller may sell or offer for sale to a consumer any vapor products or ANP or tobacco products as defined by R.S. 26:901(30) to any person under 21 years of age.

2. Each licensed seller holding a valid retail dealer permit as defined by R.S. 26:902(1) who over the counter or by vending machine sells or offer for sale vapor products, ANP or tobacco products as defined by R.S. 26:902(30) shall verify age by means of photographic identification containing the bearer's birthdate that the person purchasing the product is not younger than 21 years of age.

B. Online Sales. Pursuant to R.S. 26:911(D), at the time of any online purchase, whereby the seller is the manufacturer of vapor products or ANP holding a valid unsuspended retailer dealer permit may receive online orders and accept payment via the Internet or through a mobile application or similar technology. Prior to the seller mailing, shipping, or otherwise delivering the products, the seller shall obtain and verify the age of the recipient through the use of a real-time electronic age verification platform that shall be approved by the commissioner and such platform shall be capable of both of the following.

1. Age verification system—verifying proof of age through authoritative digitized identification card technology.

a. An authoritative digitized identification card technology may include but is not limited to an electronic age-verification platform utilized prior to completion of the online transaction, whereby the platform verifies the recipient's full name, birth date, and residential address of that person through the use of commercially available database or aggregate of databases, consisting primarily of data from government sources, that are regularly used by government and businesses for the purpose of age and identity verification and authentication to ensure that the purchaser is at least 21 years old. No database being used for age and identity verification for this purpose shall be in the possession or under the control of the seller or subject to any changes or supplementation by the seller.

b. Storing the recipient's name, age, birthdate, the expiration date of the identification and the date and time the identification was verified.

2. Shipping label—all shipments to consumers made by a licensed retail seller of any vapor products, electronic cigarettes, or alternative nicotine products, shall be packaged and marked on the same surface of the delivery address with a label containing a statement that is clear and conspicuous as follows:

a. The words "vapor product, electronic cigarette, or alternative nicotine product—shipment" shall be marked and clearly visible on both the front and back of the packing in lettering measuring at least 1/4 inch in height.

b. The words "unlawful to sell or deliver to anyone under 21 years of age" must be clearly visible on the front of the package, in lettering at least 1/4 inch in height.

c. The seller's retail dealer permit number shall be clearly displayed on the front of the package.

d. All shipments shall have affixed to the exterior packaging a notification to the person making the delivery that the signature of the recipient is required prior to the delivery. The notice should be at least 3-inch by 3-inch and contain words similar to the following.

ATTENTION

Courier

(Signature Required)

Deliver to RECIPIENT address only. No indirect delivery.

Disregard any Signature Release.

Recipient MUST be at least 21 years old.

3. Delivery. At the time of any delivery of any vapor products, electronic cigarettes, or ANP purchased online, a third-party delivery agent shall obtain the recipient's signature and verify the age of the recipient through the use of an electronic age verification device that shall be approved by the commissioner.

a. Such device shall be capable of the following:

i. verifying proof of age through technology of a magnetic card reader or an alternative technology capable of verifying proof of age;

ii. reading a valid state-issued driver's license, a valid state issued identification card, a valid military identification card, or a valid passport;

iii. storing the recipient's name, age, date of birth, the expiration date of the identification, and the date and time that the identification was scanned.

b. The third party delivery agent shall refuse delivery and return the vapor product, electronic cigarette, or alternative nicotine product to the seller if:

i. the recipient does not produce a valid and current form of identification as provided in R.S. 26:911(A);

ii. there is reason to doubt the authenticity or correctness of the recipient's identification;

iii. the recipient refuses to sign for the receipt of the delivery.

C. No retailer may sell or deliver cigarettes, cigars, pipe tobacco, chewing tobacco, smokeless tobacco, or any other tobacco product of any kind in a retail establishment to any person through any unattended or self-service checkout counter or mechanical device unless the customer submits to a clerk a valid driver's license, selective service card, or other lawful identification that on its face establishes the age

of the person as 21 years or older and there is no reason to doubt the authenticity and correctness of the identification prior to approaching the self-checkout counter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:833, R.S. 49:953(B), R.S. 26:922 and R.S. 26:926.

HISTORICAL NOTE: Promulgated by the Department of Revenue, Office of Alcohol and Tobacco Control, LR 31:2035 (August 2005), amended by the Department of Revenue, Office of Alcohol and Tobacco Control, LR 49:

§3117. Importation of Cigarette by Wholesaler Only

A. Cigarettes, as defined in R.S. 26:901, produced or manufactured outside of this state cannot be sold or offered for sale in Louisiana, or shipped or transported into the state except to the holder of a wholesale dealer's permit. Delivery of cigarettes produced or manufactured outside of this state must be made at the place of business of the wholesaler shown on the wholesale dealer's permit, and must be received and warehoused by the wholesaler at that place of business, where such cigarettes must come to rest before delivery is made to any retailer.

B. - C. ...

D. Any retailer of cigarettes who violates any provision of this Section will be subject to a civil penalty in accordance with R.S. 47:877. Any retailer that sells and ships directly to consumers in Louisiana pursuant to Subsection B of this Section must, on the application for authority to make such shipments filed with the secretary of the Department of Revenue in accordance with Subsection C of this Section, acknowledge in writing the civil penalty established in this Subsection and must consent to the imposition thereof upon violation of this Section. The secretary may initiate and maintain a civil action in a court of competent jurisdiction to enjoin any violation of this Section and to recover the civil penalty established in this Subsection, together with all costs and attorney fees incurred by the secretary incidental to any such action.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:953(B), R.S. 26:922 and R.S. 26:926.

HISTORICAL NOTE: Promulgated by the Department of Revenue, Office of Alcohol and Tobacco Control, LR 31:2036 (August 2005), amended LR 40:1115 (June 2014), amended by the Department of Revenue, Office of Alcohol and Tobacco Control, LR 49:

§3121. Stamping Agent Designation Requirements

A. Requirements. Pursuant to R.S. 26:902(2)(a), a stamping agent designation shall be issued as a secondary permit to a dealer that engages in the business of purchasing unstamped or non-taxed paid cigarettes that meets all requirements of a wholesale dealer as defined by R.S. 26:906H and at the time of application, produces the following documentation:

1. a copy of a direct purchasing agreement with a cigarette manufacturer or importer of cigarettes who holds a valid permit issued pursuant to 26 U.S.C. 5713 or from a sales entity affiliate whose name and address has been provided to the attorney general pursuant to R.S. 13:5073(A)(7);

2. maintain on the premises to be licensed a tax stamping machine capable of opening a carton of cigarettes, affixing stamps on all packs, and capable of resealing the carton of cigarettes;

3. shall comply with all requirements as provided by R.S. 26:916H.

B. Stamping Agent Required for Retail and Wholesale Sales of Vape Products, ANP and Electronic Cigarettes

1. Pursuant to R.S. 26:911B(1)(b), no retailer shall purchase ANP, vape products, or electronic cigarettes products for resale except from a wholesale dealer operating with a valid unsuspended wholesale dealer permit and a valid stamping agent designation.

2. No wholesale dealer operating with a valid unsuspended permit may sell or offer for sale any ANP, vape products, or electronic cigarettes products for resale unless wholesale dealer also holds a valid stamping agent designation pursuant to R.S. 26:902(2)(a).

a. Stamping agent designation shall be valid only if issued in conjunction with a valid Louisiana tobacco wholesale permit. In the event the tobacco wholesale permit is not valid or expires, the stamping agent designation will also be invalidated.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:953(B), R.S. 26:922 and R.S. 26:926.

HISTORICAL NOTE: Promulgated by the Department of Revenue, Office of Alcohol and Tobacco Control, LR 31:2036 (August 2005), amended LR 40:1115 (June 2014), amended by the Department of Revenue, Office of Alcohol and Tobacco Control, LR 49:

§3123. V.A.P.E. ("Vapor and Alternative Nicotine Products and Electronic Cigarettes") Certification and Directory

A. Initial Certification and Renewal Applications. Beginning October 1, 2023, every vapor product manufacturer and ANP manufacturer whose products are sold in Louisiana, whether directly or through a wholesale dealer, retail dealer, or similar intermediary or intermediaries, must submit to the agency a certification form for each product per SKU and certify under penalty of perjury the products meets one of the requirements provided by R.S. 26:926A.

1. Initial Certification Fee. The initial fee for certification shall be \$100 per product SKU. Each manufacturer must submit to the ATC a completed certification form as provided by the agency or submit certification form electronically through the agency's online portal with applicable fees and supporting documentation. Failure to submit the required fees and/or supporting documents will result in denial of certification application.

a. Each product SKU certification will expire or become inactive annually on October 31.

2. Annual Renewal Certification Fee. To remain active on the V.A.P.E directory, all SKU(s) must be recertified annually at a cost of \$100 per product SKU.

a. Each SKU shall be required to be recertified annually by the ANP or vapor product manufacturer on or before November 1 of each year. Recertification period will be available beginning September 1 through October 31 of each year and must be submitted electronically through the agency's online portal permitting system, unless a different method to renew is otherwise provided by commissioner. The annual renewal application and fees must be received by the agency during the renewal period to be considered timely.

3. Expiration of Certification. If the manufacturer's certification expires, the manufacturer must remit a new initial certification application with supporting documents

and fees and any associated penalty, if applicable, to be recertified for consideration that eligible products be added to the V.A.P.E directory.

B. V.A.P.E Directory. Pursuant to R.S. 26:926(A), beginning November 1, 2023, and on the 1st of each month thereafter, the agency will post to its website a directory of listing a certified manufacturer of vapor products, ANP, or electronic cigarettes along with a listing of the certified and approved products for sale in Louisiana.

1. Only products published on the V.A.P.E. directory may be offered for sale in Louisiana by any wholesaler or retailers. All other products are subject to penalties as provided by law.

C. Penalties and Fines

1. Manufacturer Penalty. \$1000 fine per day for each vapor product or ANP offered for sale by the manufacturer that is not listed on the V.A.P.E. directory until the offending product is removed from the market or until the offending product is properly listed on the directory.

a. Manufacturers offering sale of products online is required to post language restricting sale of any item not listed on the VAPE directory and restrict the completion of any sale of uncertified products intended to be delivered into Louisiana.

2. Manufacturer Failure to Timely Notify Commissioner of Material Change. Pursuant to R.S. 26:926(C), any manufacturer submitting a certification shall notify the commissioner in writing within 30 days of any material change to the certification as provided by law. Failure to notify the commissioner timely will result in removal of product from the V.A.P.E directory and such failure may be subject to penalty as prescribed by R.S. 26:926(J).

3. Retailer or Wholesaler Penalty. Wholesalers and retailers are required to cease the sale or offer for sale of any products not listed on the V.A.P.E directory posted on the agency's website on the 1st of each month. All wholesalers and retailers are responsible to review the directory published on the agency's website and take the necessary actions to remove and cease the sale of any product not listed on the directory.

a. Each SKU per product sold or offered for sale including displayed for sale, or possession of each product not listed on the V.A.P.E directory on or within the retail or wholesale space located in Louisiana is subject to the provisions of R.S. 47:858, 47:859 and R.S. 47:860 and constitute a separate violation per SKU per product in violation of R.S. 26:909(A)(5).

b. All ANP or vapor products not listed on the V.A.P.E directory are required to be remove from the licensed premises by the 5th of each month or such possession of each unapproved product per SKU subject to the provisions of R.S. 47:858, 47:859 and R.S. 47:860 and constitute a separate violation per SKU per product in violation of R.S. 26:909(A)(5).

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:953(B), R.S. 26:922 and R.S. 26:926.

HISTORICAL NOTE: Promulgated by the Department of Revenue, Office of Alcohol and Tobacco Control, LR 31:2036 (August 2005), amended LR 40:1115 (June 2014), amended by the Department of Revenue, Office of Alcohol and Tobacco Control, LR 49:

Public Comments

Interested persons may submit written comments to Commissioner Ernest P. Legier Jr., Office of Alcohol and Tobacco Control, P.O. Box 66404, Baton Rouge, LA 70896 or at ATC-Attorneys@atc.la.gov.

Linda Pham
Attorney Supervisor

2310#015

DECLARATION OF EMERGENCY

Department of Wildlife and Fisheries Wildlife and Fisheries Commission

Prohibition of Fire on LDWF Owned or Managed Lands

In accordance with R.S. 49:962 of the Administrative Procedure Act, and under authority of R.S. 56:6, R.S. 56:32, R.S. 56:115 and R.S. 56:702, and LAC 76:XIX.111.A.1 and LAC 76:XIX.111.G.1.c, the Secretary of the Department of Wildlife and Fisheries (LDWF) adopts the following Emergency Rule:

Louisiana is experiencing a period of severe drought and extreme heat. As a result, the Office of State Fire Marshal issued a Cease and Desist Order dated August 7, 2023 for all private burning. On August 11, 2023, Governor John Bel Edwards issued Proclamation 141 JBE 2023, declaring a statewide emergency, while authorizing and ordering all departments, commissions, boards, agencies and officers of the state to cooperate in actions the State may take in this event. On August 25, 2023, the Office of State Fire Marshal issued a statewide burn ban prohibiting all private burning with no limitations. Conditions conducive for wildfires are expected to continue, putting at risk the life, safety and welfare of the citizens of Louisiana as well as fish and wildlife resources. As a result, the secretary of the Department of Wildlife and Fisheries executed a Declaration of Emergency dated September 1, 2023, prohibiting the ignition of fires of any kind upon LDWF owned or managed lands. On September 6, 2023, the Office of State Fire Marshal issued a news release stating that outdoor cooking can resume with safety measures in place, despite the continuation of the statewide burn ban. On September 7, 2023, the Wildlife and Fisheries Commission issued a declaration of emergency rescinding and replacing the one previously issued by the secretary prohibiting all burning upon LDWF owned or managed lands, except for outdoor cooking, which is valid through October 5, 2023.

Now, the Department of Wildlife and Fisheries and the Wildlife and Fisheries Commission hereby declare a continuation of the statewide emergency regarding all LDWF Wildlife Management Areas, refuges, and conservation areas ("LDWF owned or managed lands"). As a matter of public safety and protection, and in order to protect the fish and wildlife resources of the State of Louisiana, all burning upon LDWF owned or managed lands is strictly prohibited. However, outdoor cooking is allowed using contained cooking equipment, designed for cooking purposes only, on a flame-resistant surface with a water source or fire extinguisher nearby. Failure to abide by this

Declaration of Emergency shall constitute a Class 2 violation.

This Declaration of Emergency is effective October 6, 2023, and remains in effect through Thursday, November 2, 2023, unless otherwise rescinded or modified by the Department of Wildlife and Fisheries or the Wildlife and Fisheries Commission.

Robert E. Shadoin
Secretary
and
Andrew J. Blanchard
Chairman

2310#019

Rules

RULE

Board of Elementary and Secondary Education

Bulletin 111—The Louisiana School, District,
and State Accountability System
Social Studies Assessment Transition
(LAC 28:XI.405)

In accordance with the provisions of R.S. 17:6(A)(10) and the Administrative Procedure Act (APA), R.S. 49:953(B)(1) et seq., the Board of Elementary and Secondary Education (BESE) has amended LAC 28:XI in *Bulletin 111—The Louisiana School, District, and State Accountability System*. The revisions provide for assessment index calculations for student-level and school-level scores during the 2023-2024 field test of the new social studies LEAP assessment aligned to the Social Studies Content Standards adopted by BESE in 2022. This Rule is hereby adopted on the day of promulgation.

Title 28 EDUCATION

Part XI. Accountability/Testing

Subpart 1. Bulletin 111—The Louisiana School, District, and State Accountability System

Chapter 4. Assessment and Dropout/Credit Accumulation Index Calculations

§405. Calculating a K-8 Assessment Index [Formerly LAC 28:LXXXIII.405]

A. - C.1. ...

D. Weight each subject-test index score by the corresponding value from the table below.

Unit Weights for K-8 Assessment Index				
Grade	ELA	Math	Science	Social Studies
3rd	2	2	1	1
4th	2	2	1	1
5th	2	2	1	1
6th	2	2	1	1
7th	2	2	1	1
8th	2	2	1	1

1. For the 2023-2024 school year, the social studies test for third through eighth grade students will be administered as a field test only. The K-8 assessment index for the 2023-2024 school year will be calculated with each subject-test index score weighted by the corresponding value from below. Unit weights for 2023-2024 K-8 assessment index:

- English Language Arts (ELA) - 2;
- Mathematics - 2; and
- Science - 2.

E. - J. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 and 17:10.1.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:1021 (June 2006), amended LR 36:1989 (September 2010), LR 38:3106 (December

2012), LR 41:2579 (December 2015), LR 42:548 (April 2016), LR 42:2172 (December 2016), LR 44:448 (March 2018), LR 45:221 (February 2019), LR 47:445 (April 2021), LR 49:31 (January 2023), LR 49:1698 (October 2023).

Shan N. Davis
Executive Director

2310#020

RULE

Board of Elementary and Secondary Education

Bulletin 136—The Louisiana Standards for Early
Childhood Care and Education Programs Serving
Children Birth-Five Years—Early Learning and
Development Standards
(LAC 28:CLIX.Chapters 1 - 5)

In accordance with the provisions of R.S. 17:6(A)(10) and the Administrative Procedure Act (APA), R.S. 49:953(B)(1) et seq., the Board of Elementary and Secondary Education has amended LAC 28:CLIX in *Bulletin 136—The Louisiana Standards for Early Childhood Care and Education Programs Serving Children Birth-Five Years*. The revisions replace and provide Early Learning and Development Standards (ELDS), a set of common, developmentally-appropriate expectations for what children typically know, understand, and are able to perform at different stages of early childhood. The ELDS provide age-appropriate goals for children’s learning and development that guide teachers, caregivers, and other early childhood professionals on the types of experiences and activities children should have during their earliest years. ELDS can be used to support developmentally appropriate curriculum and assessment and to outline a progression of development and learning that supports success in school and in life. This Rule is hereby adopted on the day of promulgation.

Title 28 EDUCATION

Part CLIX. Bulletin 136—Louisiana Early Learning and Development Standards for Children Birth to Five Years Chapter 1. General Provisions

§101. Introduction

A. Louisiana’s Early Learning and Development Standards (ELDS) provide a set of common, developmentally appropriate expectations for what children typically know, understand, and are able to perform at different stages of early childhood. These standards are research-based, comprehensive, and are written with the understanding that children reach developmental milestones at different times. The ELDS provide age-appropriate goals for children’s learning and development that can guide teachers, caregivers, and other early childhood professionals on what types of experiences and activities children should have during their earliest years. ELDS are used to support developmentally appropriate curriculum and assessment and

to outline a progression of development and learning that supports success in school and in life.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), 17:24.2, and R.S. 17:153.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 39:2445 (September 2013), amended LR 49:1698 (October 2023).

§103. Definitions

Alphabet Awareness—knowledge of letters of the alphabet coupled with the understanding that the alphabet represents the sounds of spoken language and the correspondence of spoken sounds to written language.

Approaches to Learning—behaviors and attitudes that indicate how children approach tasks and activities to learn and include characteristics such as initiative and curiosity; attention, engagement and persistence; and problem solving which help strengthen and facilitate learning across other school readiness domains.

Attention, Engagement, and Persistence—the capacity to pay attention and engage in learning activities for short periods of time so that children can complete short-term, concrete tasks and activities and then progresses so that children can concentrate for longer periods of time, persist in activities of interest, and set goals.

Emergent Writing—young children’s first attempts at the writing process.

Expressive Communication—the ability to communicate our thoughts and feelings through words, gestures, signs, and/or symbols.

Fine Motor Development—Skill development involving the smaller muscles of the hand.

Gross Motor Development—Skill development involving the large muscles in the arms, legs and torso.

Initiative and Curiosity—Personal experiences and the openness and curiosity about new discoveries that begin with interest in the world around them and the initiative to gain new knowledge by taste, touch, smell, sight, sound, and physical actions, then develops into interaction with unfamiliar objects and materials, seeking new ways for using items in the environment, and learning new information in a variety of ways in order to add to the growing knowledge of the world.

Phonological Awareness—the awareness of and ability to work with sounds in spoken language.

Print Concepts—the understanding of the nature and uses of print.

Problem Solving—noticing how actions affect objects and cause things to happen, to find solutions, and to apply similar strategies again in the future including the skills of explaining how problems are solved, observation, reasoning, and prediction.

Receptive Communication—the ability to understand words and language.

Social and Emotional Development—the process through which children acquire the capacity to understand, experience, express, and manage emotions and to develop meaningful relationships with others.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 39:2445 (September 2013), amended LR 49:1699 (October 2023).

Chapter 3. Learning and Development

§301. Approaches to Learning

A. Initiative and Curiosity. Standard 1: Children engage in multiple and varied play-based experiences.

1. Infants, Birth-11 Months

a. Explore objects, materials, and/or people in their immediate environment using their senses. Interact with materials by manipulating them in a variety of ways (e.g., grasp; mouth; bang).

b. Demonstrate interest in others (e.g., turn head toward familiar voice).

c. Meet one’s own needs using simple behaviors (e.g., feed oneself finger foods).

d. Select a particular material, toy, or place of interest to explore on their own.

2. Young Toddlers, 9-18 Months

a. Explore and interact with familiar objects and materials in the environment. Use everyday objects and toys as intended in their play (e.g., build with blocks; stir with spoons).

b. Demonstrate interest in their surroundings.

c. Attempt to help with simple tasks and activities.

d. Express choices and preferences.

3. Older Toddlers, 16-36 Months

a. Explore both familiar and unfamiliar materials, activities, and experiences. Explore new ways to use familiar objects during play (e.g., hold a banana to the ear and talk into it like a phone).

b. Seek information about familiar objects, people, and experiences.

c. Demonstrate increasing interest and independence in completing simple tasks.

d. Insist on preferences and express dislikes.

4. Three Year Olds, 36-48 Months

a. Explore unfamiliar objects, materials, and experiences. Combine materials in new and unique ways (e.g., put blocks together to create a road for cars).

b. Seek information about unfamiliar objects, people, and experiences.

c. Complete a variety of simple tasks independently.

5. Four Year Olds, 48-60 Months

a. Seek out and engage with unfamiliar objects, materials, and experiences.

b. Seek information and contribute to discussions about a variety of new topics, ideas, and activities.

c. Complete multi-step tasks independently.

B. Attention, Engagement, and Persistence. Standard 2: Children engage in activities and tasks with attention, focus, and persistence.

1. Infants, Birth-11 Months

a. Establish eye contact with a familiar person. Attend to new objects and familiar adults in the environment.

b. Intentionally take action to make things happen (e.g., shake rattle to make noise).

2. Young Toddlers, 9-18 Months
 - a. Focus attention on people, objects, and activities of interest.
 - b. Repeat self-selected tasks over and over again.
 - c. Complete self-selected tasks and then spontaneously express pleasure at accomplishments (e.g., smile; clap).
 3. Older Toddlers, 16-36 Months
 - a. Focus attention to complete a short, simple task with adult support.
 - b. Complete activities of choice from start to finish with adult support.
 - c. Remain actively engaged in activities of interest and protest if interrupted.
 4. Three Year Olds, 36-48 Months
 - a. Maintain focus on activities of interest despite distractions.
 - b. Continue working on self-selected activities despite setbacks (e.g., try again after the block tower falls down).
 - c. Express goals and then work to achieve them with prompting and support (e.g., When asked, a child says "I want to make something" and then goes to the art center and draws a picture).
 5. Four Year Olds, 48-60 Months
 - a. Maintain focus on adult-directed activities with adult support.
 - b. Persist with a challenging task despite interruptions and disruptions.
 - c. Express simple goals that extend over time, make plans, and follow through to complete them (e.g., Child says, "I want to play doctor after breakfast. Liam is going to play with me.", and then does so after eating).
- C. Problem Solving. Standard 3: Children demonstrate flexibility and creativity by using a variety of strategies to solve problems.
1. Infants, Birth-11 Months
 - a. Interact with objects in a variety of ways and notice the effects of their own actions.
 - b. Attend to objects and/or activities in the environment.
 - c. Solve simple problems and accomplish tasks using gestures, movement, and/or vocalizations (e.g., roll over to reach a toy; cry to express needs).
 2. Young Toddlers, 9-18 Months
 - a. Repeat behaviors to obtain desired results.
 - b. Observe the ways in which others interact with objects and materials.
 - c. Try out one or two strategies to accomplish tasks and solve problems with adult support.
 3. Older Toddlers, 16-36 Months
 - a. Experiment with the effects of simple actions on different objects (e.g., use a scoop to put sand into a bucket, then attempt to use a scoop to put water into a bowl).
 - b. Observe and imitate actions of others when attempting to accomplish tasks or solve problems.
 - c. Try out a variety of strategies to accomplish tasks and/or solve problems, often by trial and error.
 4. Three Year Olds, 36-48 Months
 - a. Make predictions based on past experiences.
 - b. Recall and use previously successful strategies to complete tasks.

- c. Purposefully use a variety of strategies, changing the approach as needed, to accomplish tasks or solve problems.
 5. Four Year Olds, 48-60 Months
 - a. Make predictions and explain reasoning.
 - b. Apply prior knowledge and experiences to complete new tasks and solve new problems.
 - c. Communicate the steps used to solve problems and/or accomplish tasks.
- AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10).
- HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 39:2451 (September 2013), amended LR 49:1699 (October 2023).
- §303. Social and Emotional Development**
- A. Relationships with Adults. Standard 1: Children engage in and maintain positive relationships and interactions with adults.
1. Infants, Birth-11 Months
 - a. Notice and respond to familiar adults.
 - b. Respond differently to familiar versus new adults.
 - c. Move or cry to seek attention and comfort from familiar adults.
 - d. Engage in simple back-and-forth interactions with familiar adults (e.g., repeat cooing sound after adult responds).
 - e. Repeat actions that elicit social responses from familiar adults.
 2. Young Toddlers, 9-18 Months
 - a. Mimic signs of recognition (e.g., smile, wave).
 - b. Seek to be near familiar adults and respond cautiously to new adults.
 - c. Request help from familiar adults to address wants and needs with sounds and body language.
 - d. Initiate back-and-forth play with familiar adults.
 - e. Imitate gestures and sounds of familiar adults during interaction.
 3. Older Toddlers, 16-36 Months
 - a. Initiate signs of recognition with familiar adults.
 - b. Check in with familiar adults for reassurance when trying new things.
 - c. Request help from familiar adults when encountering difficult tasks or situations.
 - d. Initiate play and interactions with familiar adults.
 - e. Imitate behaviors observed in familiar adults (e.g., pretend to cook or read a book).
 4. Three Year Olds, 36-48 Months
 - a. Demonstrate recognition of familiar adults using simple actions and/or words.
 - b. Separate from familiar adults when in familiar settings.
 - c. Request help from adults to meet needs and/or solve problems, then attempt to implement suggestions with adult support.
 - d. Interact with both familiar and new adults.
 - e. Interact with adults to seek information and to socialize.
 5. Four Year Olds, 48-60 Months
 - a. Demonstrate recognition of familiar adults using multiple and varied actions and/or words.
 - b. Separate from familiar adults in new settings.

c. Work with adults to generate ideas for accomplishing tasks and/or solving problems, then implement suggestions independently.

d. Interact with adults new to their environment (e.g., substitute caregiver).

e. Interact with adults to share ideas and plan activities.

B. Relationships with Children. Standard 2: Children engage in and maintain positive relationships and interactions with other children.

1. Infants, Birth-11 Months

a. Notice other infants and children.

b. Touch, smile, or babble to other infants and children.

2. Young Toddlers, 9-18 Months

a. Interact briefly with other children using gesturing.

b. Demonstrate awareness of conflict (e.g., cry; turn away).

3. Older Toddlers, 16-36 Months

a. Play alongside other children (parallel play) for short periods of time with adult support.

b. Take turns when playing with other children with adult guidance and support.

c. Interact more frequently with a familiar child.

d. Seek assistance from adults to resolve conflicts with other children.

4. Three Year Olds, 36-48 Months

a. Interact or play cooperatively with other children.

b. Demonstrate prosocial behaviors (e.g., taking turns, sharing) when playing with other children with some prompting from adults.

c. Demonstrate preference to play with one or more specific children.

d. Initiate an activity or join other children in an activity that is already in progress.

e. Suggest solutions to conflicts with adult guidance and support.

5. Four Year Olds, 48-60 Months

a. Interact or play cooperatively with a small group of children for a sustained period of time.

b. Demonstrate prosocial behavior (e.g., taking turns, sharing) when playing with other children with few reminders.

c. Demonstrate preference to routinely play with one or more specific children.

d. Initiate, join in, and sustain positive interactions with a small group of children.

e. Suggest solutions to resolve conflicts with other children with limited adult support.

C. Self-Confidence. Standard 3: Children recognize themselves as unique individuals and express confidence in their own abilities.

1. Infants, Birth-11 Months

a. Explore one's own body parts (e.g., study hands; play with feet).

b. Respond to one's own image in a mirror.

c. React when name is called (e.g., smile; coo).

d. Express preferences for objects, activities, and people.

e. Demonstrate awareness of basic routines (e.g., move arms and legs rapidly at sight of bottle).

f. Express pleasure at things one has done (e.g., wiggle; coo; laugh).

2. Young Toddlers, 9-18 Months

a. Point to one's own body parts when prompted.

b. Recognize oneself in a mirror.

c. Respond when name is called.

d. Express preferences for objects, activities, and people using gestures, signs, or words.

e. Indicate familiarity with routines or activities (e.g., attempt to hold a spoon; hold arms out to be picked up).

f. Demonstrate a sense of satisfaction when accomplishing simple tasks.

g. Express pride over accomplishments.

3. Older Toddlers, 16-36 Months

a. Identify/name body parts independently.

b. Identify oneself in photographs.

c. Use different words (e.g., I, me, mine) when referring to oneself, including first name.

d. Indicate preferences when asked (e.g., food; toys; activities).

e. Identify self as a unique member of a family (e.g., identify self and other family members in family photo).

f. Demonstrate confidence in one's own abilities and express satisfaction when demonstrating them to others.

g. Call attention to new skills or abilities.

4. Three Year Olds, 36-48 Months

a. Use one's own first and last name.

b. Describe oneself using personal characteristics.

c. Express likes and dislikes, and make choices based on personal preferences.

d. Share information about family members and traditions (e.g., describe family events, celebrations, and/or important people in their lives).

e. Demonstrate confidence in one's own abilities and accomplish routine and familiar tasks independently.

f. Express positive feelings about self when prompted.

5. Four Year Olds, 48-60 Months

a. Differentiate between self and others based on personal characteristics and/or interests.

b. Identify self as a unique member of different groups (e.g., family; preschool class).

c. Demonstrate confidence in one's own abilities, taking on new and challenging activities, and declining help when offered.

d. Describe oneself using positive terms (e.g., hard worker).

D. Emotion Regulation. Standard 4: Children regulate their emotions and behavior and respond to the emotions of others.

1. Infants, Birth-11 Months

a. Express simple emotions (e.g., contentment; distress) using sounds, facial expressions, and/or body movements.

b. React to an adult's expression of feelings (e.g., facial expression; tone of voice).

c. React to others' expressions of emotions (e.g., cries when another child cries).

d. Express and act on impulses (e.g., cry when hungry; explore how hair feels by pulling it).

e. React to stressful situations by shifting attention or turning away.

f. Accept comfort when held, rocked, or talked to by a familiar adult.

2. Young Toddlers, 9-18 Months

a. Express a range of basic emotions (e.g., happiness; sadness; fear; anger) using sounds, facial expressions, gestures and/or actions.

b. Imitate adult expressions of feelings using facial expressions, sounds, gestures, and/or actions.

c. Respond to others' expressions of emotions with adult support.

d. Accept some redirection from adults.

e. Participate in simple routines and accept transitions with adult support.

f. Notice how others respond to one's own behaviors.

g. Use simple behaviors to soothe oneself when upset.

3. Older Toddlers, 16-36 Months

a. Express a range of emotions (e.g., pride; embarrassment) using gestures, actions, and/or words.

b. Recognize feelings when named by an adult.

c. Respond in caring ways to others' expressions of emotions (e.g., take a blanket to a crying child).

d. Frequently respond positively to choices and limits set by an adult.

e. Participate in routines, accept transitions, and follow simple guidelines for behavior with adult support.

f. Experiment with effects of one's own actions on objects and people.

g. Imitate strategies to manage emotions and behavior with adult direction.

h. Demonstrate the ability to wait for a short period of time to get what one wants with guidance and support.

4. Three Year Olds, 36-48 Months

a. Express complex emotions (e.g., gratitude; jealousy) using actions and/or words.

b. Accurately identify one's own basic feelings (e.g., happy; mad; sad).

c. Accurately identify basic emotions in others and respond with care and concern.

d. Participate in routines, manage transitions, and follow adult guidelines for behavior with frequent reminders.

e. Demonstrate understanding of how one's own actions and behavior affect others.

f. Use a variety of strategies (e.g., deep breathing; use of words) to manage emotions and behavior with adult support.

g. Demonstrate the ability to wait to get something one wants (delayed gratification).

5. Four Year Olds, 48-60 Months

a. Express strong emotions in a manner that is safe for self and others with occasional adult support.

b. Accurately label one's own feelings and identify them in various situations.

c. Accurately label emotions in others, predict causes, and respond with care and concern (e.g., "He's sad because someone took his toy. He can have mine.").

d. Participate in routines, manage transitions, and follow adult guidelines for behavior with less frequent reminders, adapting to changes in each as needed.

e. Predict consequences of one's own and others' actions and behavior with adult support.

f. Manage emotions and behavior with occasional verbal, visual, and/or auditory reminders.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 39:2454 (September 2013), amended LR 49:1700 (October 2023).

§305. Language and Early Literacy Development

A. Language Development, Receptive Communication.
Standard 1: Children attend to, understand, and respond to verbal and non-verbal communication and language from others.

1. Infants, Birth-11 Months

a. Recognize more than one tone of voice in adults and respond with body movement and sounds.

b. Demonstrate interest in voices, and focus on speech, sounds, and other communication directed at them.

c. Respond or show excitement upon hearing familiar words.

d. Respond to simple requests accompanied by gestures or tone of voice.

2. Young Toddlers, 9-18 Months

a. Respond to facial expressions, tone of voice, and some words that communicate basic emotions.

b. Respond to speech and other communication directed at them.

c. Respond appropriately to familiar words, signs, and/or songs.

d. Follow simple directions, especially if accompanied by gestures.

3. Older Toddlers, 16-36 Months

a. Respond to facial expressions, tone of voice, and words that communicate a variety of emotions.

b. Respond to simple statements, questions, and other communication.

c. Demonstrate understanding of descriptive words through conversations and actions.

d. Follow one or two-step directions with few gestures.

4. Three Year Olds, 36-48 Months

a. Respond to statements, questions, and other communication.

b. Demonstrate understanding of a variety of words through conversations and actions, including those relating to objects and actions. Determine the meaning of unknown words by asking questions or using contextual clues, with modeling and support.

c. Follow directions of two or more steps with familiar objects, experiences, and/or routines, using visual cues if needed (e.g., wash and dry hands using a visual of the hand-washing sequence).

5. Four Year Olds, 48-60 Months

a. Respond to complex statements, questions, and other communication that include multiple phrases and ideas.

b. Demonstrate understanding of a variety of words through conversations and actions, including words that express abstract concepts such as synonyms and opposites. Determine the meaning of unknown words by asking questions, using contextual clues, pictures, and/or prior knowledge.

c. Follow detailed directions that involve multiple steps (e.g., “Get the sponge, dampen it with water, and clean your table top.”).

B. Language Development, Expressive Communication. Standard 2: Communicate with others to express self.

1. Infants, Birth-11 Months

a. Experiment with making sounds. Engage in babbling.

b. Communicate needs and wants, interest, or dislike through vocalizations, gestures, and facial expressions.

2. Young Toddlers, 9-18 Months

a. Communicate through word-like sounds, some words, and some simple phrases.

b. Express needs and wants and refer to familiar people and objects using verbal and non-verbal communication.

c. Respond to simple statements and questions about pictures, people, and things that are present.

d. Use some pronouns.

3. Older Toddlers, 16-36 Months

a. Communicate through simple phrases and/or short sentences, but may omit some words or use some words incorrectly (e.g., “Mommy goed to store”).

b. Communicate requests and describe familiar people and objects using verbal and non-verbal communication.

c. Answer and ask simple questions about things and activities at the time they are happening.

d. Use correct words for familiar people, objects, and animals. Describe observable characteristics of objects, such as color and size, with simple words. Expand their vocabulary by asking others to name unfamiliar objects.

e. Speak in a way that is understood by most familiar people.

f. Use the plural forms of some nouns, not always correctly. Use the past tense of some verbs. Use simple adjectives in statements.

4. Three Year Olds, 36-48 Months

a. Communicate using simple sentences.

b. Communicate ideas, describe activities, and negotiate social interactions using verbal communication.

c. Answer and ask questions about a variety of familiar topics, activities, and/or concepts.

d. Express emotions, talk about position and direction, and describe actions using a variety of words. Describe the use of familiar objects, including objects that belong in the same category based on how they are used. Determine the meaning of unknown words by asking questions or using contextual clues, with modeling and support.

e. Speak in a way that is understood by unfamiliar listeners but may make some pronunciation errors.

f. Use common prepositions, correct subject-verb agreement, pronouns, and possessives.

5. Four Year Olds, 48-60 Months

a. Communicate using longer sentences, including the use of descriptive details and vocabulary and/or combining two or three phrases.

b. Communicate about abstract ideas, tell a story, describe past experiences, and discuss objects that are not physically present using verbal communication. Adjust communication strategies if the message is not understood.

c. Answer and ask complex questions to learn more about topics of interest, understand tasks, and solve problems, with explanation or follow-up questions.

d. Use several words that explain the same idea (i.e., synonyms) and opposites. Use acquired vocabulary in conversations. Determine the meaning of unknown words using prior knowledge and context clues in conversation.

e. Speak in a way that is understood by unfamiliar listeners, with few pronunciation errors.

f. Correctly use a variety of different types of words, including prepositions, regular and irregular plural nouns, pronouns, possessives, and regular and irregular past tense verbs, most of the time.

C. Language Development, Social and Conversational Rules. Standard 3: Children use social and conversational rules when communicating with others.

1. Infants, Birth-11 Months

a. Initiate interactions with another person using movement and/or behavior.

b. Briefly pay attention to the same object at which the caregiver is looking. Engage in turn-taking during social and vocal play with adults and other children.

2. Young Toddlers, 9-18 Months

a. Initiate interactions with others using gestures and/or vocalizations.

b. Establish joint attention by looking at an object, at their caregiver, and back at the object. Respond to communication from another person using multiple means (non-verbal and verbal).

c. “Jabber” and vocalize sounds in a way that is similar to the rhythm and flow of conversations around them.

3. Older Toddlers, 16-36 Months

a. Ask questions or use verbal or non-verbal cues to initiate communication with others.

b. Participate in short conversations, with some turn-taking exchanges.

c. Listen attentively during brief group conversations and respond to questions or requests made to the group.

d. Communicate in short sentences that follow the word order of their home language.

4. Three Year Olds, 36-48 Months

a. Sometimes initiate communication with peers by asking questions or using verbal or non-verbal cues.

b. Participate in conversations that include multiple turn-taking exchanges, particularly related to topics of interest.

c. Use appropriate volume and intonation when communicating, with modeling and support.

d. Make comments and ask questions related to the topic of discussion during small or large group

conversations, with prompting and support. Follow simple rules for group discussions, with reminders.

e. Communicate in sentences and use more conventional grammar in their home language (plurals, tenses, prepositions). Make grammatical errors that follow their home language rules.

5. Four Year Olds, 48-60 Months

a. Initiate communication with peers by asking questions or using verbal cues.

b. Initiate and participate in conversations that involve multiple turn-taking exchanges, with each exchange relating to and building upon the previous.

c. Use appropriate volume and intonation to match the situation when communicating.

d. Participate in a group discussion, making comments and asking questions related to the topic. Follow commonly accepted norms of communication in group settings with increasing independence.

e. Speak in full sentences that are grammatically correct within their home language most of the time.

D. Early Literacy, Phonological Awareness. Standard 1: Children demonstrate awareness that spoken language is composed of smaller segments of words and sounds.

1. Young Toddlers, 9-18 Months

a. Demonstrate interest in familiar rhymes and songs.

2. Older Toddlers, 16-36 Months

a. Sing songs and say or repeat familiar rhymes.

b. Sing songs with multiple words that start with the same initial sound.

3. Three Year Olds, 36-48 Months

a. Repeat rhyming words in familiar songs, finger plays, and rhymes, filling in rhyming words when given the opportunity.

b. Shows awareness that some words start with the same initial sound.

c. Segment spoken sentences into individual words with guidance and support.

d. Identify syllables in spoken words with guidance and support.

e. Blend a sequence of spoken syllables to produce words with guidance and support.

4. Four Year Olds, 48-60 Months

a. Identify and produce rhyming words.

b. Identify the initial sound in a spoken word with guidance and support.

c. Segment spoken sentences into individual words.

d. Identify syllables in spoken words.

e. Blend a sequence of spoken syllables to produce words.

f. Blend onsets and rimes of single syllable spoken words with guidance and support.

E. Early Literacy, Print Concepts. Standard 2: Children demonstrate knowledge of books and how print conveys meaning.

1. Infants, Birth-11 Months

a. Explore books by touch (e.g., patting and/or chewing on board books).

b. Demonstrate interest in books by reaching for books and exploring books through touch.

2. Young Toddlers, 9-18 Months

a. Hold books, look at pictures, and help turn some pages.

b. Request to have books read to them.

3. Older Toddlers, 16-36 Months

a. Recognize some familiar symbols and logos in the environment.

b. Recognize that print, symbols, and pictures have meaning.

c. Hold a book as if reading and turn some pages, but not always in the right order. Recognize specific books by their cover and look for specific pages in familiar books.

d. Self-select familiar books and engage in shared reading.

4. Three Year Olds, 36-48 Months

a. Recognize and name familiar symbols and logos in the environment (environmental print).

b. Distinguish print from pictures and show awareness that print communicates meaning.

c. Hold a book right side up and turn most pages one by one from front to back. Demonstrate awareness that print progresses from left to right and top to bottom on a page with guidance and support.

d. Share self-selected familiar books and engage in pretend reading with others.

5. Four Year Olds, 48-60 Months

a. Recognize and name pictures, symbols, and logos in the environment (environmental print).

b. Demonstrate an understanding that print has meaning and corresponds with spoken language. Demonstrates awareness that written words are made up of a group of individual letters.

c. Hold a book right side up while turning pages one by one from front to back. Identify parts of a book such as the front, back, and title. Demonstrate awareness of some conventions of print (e.g., capital letters, where to start reading on a page, and how to progress across and down a page). Describe the role of the author and illustrator of a text.

d. Demonstrate interest in different kinds of literature, such as fiction and non-fiction books and poetry, on a range of topics.

F. Early Literacy, Alphabet Awareness. Standard 3: Children recognize and identify letters and make letter-sound connection.

1. Older Toddlers, 16-36 Months

a. Recognize letters of the alphabet as a special category of print, different from pictures and shapes.

2. Three Year Olds, 36-48 Months

a. Recognize and name some letters of the alphabet, especially those in their own name, as well as letters that occur frequently in the environment.

b. Identify the sound for a few recognized letters.

3. Four Year Olds, 48-60 Months

a. Recognize and name many of the letters in the alphabet, specifically letters in their own name, as well as letters that occur frequently in the environment.

b. Identify or produce the sound of many recognized letters.

c. Recognize their own name and some common words in print.

G. Early Literacy, Comprehension. Standard 4: Children show interest in and gain understanding from a variety of early literacy experiences.

1. Older Toddlers, 16-36 Months

a. Recite some words of a familiar book when read to, especially from books with repeating text.

b. Ask or answer simple questions about a familiar story or book, including informational text.

c. Recognize when a story or book describes something that is similar to their own experiences.

2. Three Year Olds, 36-48 Months

a. Tell make-believe or real-life stories, sometimes in random sequence.

b. Retell familiar stories using pictures or props as prompts.

c. Ask or answer questions about key details in a familiar story, informational book, or other text.

d. Answer questions about how events and information from stories relate to their own experiences.

e. Share their own thoughts and reactions to a story or text.

f. Explore a variety of literacy genres, including stories/make believe, informational text, and poetry.

3. Four Year Olds, 48-60 Months

a. Tell make-believe or real-life stories using a sequence of at least 2–3 connected events.

b. Describe some key details from familiar stories, such as characters, setting, and/or major events.

c. Ask or answer questions about key details in a familiar story, informational book, or other text. Make predictions about events that might happen next, with guidance and support.

d. Recall their own experiences that relate to events and information from stories or informational texts.

e. Analyze and reason about stories and other text with guidance and support during shared reading experiences.

f. Recognize differences between stories/make believe, information text, and poetry.

H. Early Literacy, Emergent Writing. Standard 5: Children write and draw to express their ideas, using some letters and print conventions.

1. Young Toddlers, 9-18 Months

a. Make marks or scribbles using a variety of media (e.g., finger paint, chalk).

2. Older Toddlers, 16-36 Months

a. Draw or scribble with a purpose during play or other activities.

b. Make intentional, more controlled scribbles and shapes (e.g., straight or curved lines).

c. Draw a picture and describe what it represents.

3. Three Year Olds, 36-48 Months

a. Show emerging awareness that writing can be used for a variety of purposes.

b. Write letter-like forms and a few letters, although often not oriented or written correctly. String some letter-like forms and/or letters together as if they are a word.

c. Dictate ideas for someone to write down. Use scribbles, shapes, letter-like forms, letters, and numerals to

write and/or represent words or ideas. Discuss or answer questions about their writing and drawings.

4. Four Year Olds, 48-60 Months

a. Use writing for a variety of purposes to convey meaning.

b. Write some letters of meaningful words such as their name, using letters and letter-like forms.

c. Attempt to write some words using invented spelling. Demonstrate awareness of some print conventions (e.g., moving from left to right when writing; leaving space between some groups of letters).

d. Dictate elaborative or meaningful information or stories for someone to write down. Use writing and/or digital tools to communicate information. Use classroom resources (e.g., labels; anchor charts) to support writing.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 39:2454 (September 2013), amended LR 49:1702 (October 2023).

Chapter 5. Cognitive Development and General Knowledge

§501. Mathematics [Formerly §303]

A. Knowledge of Numbers. Standard 1: Children demonstrate knowledge of numbers and the relationships between numbers and quantities.

1. Infants, Birth-11 Months

a. Demonstrate interest in quantity during play (e.g., reach for more toys; hold two objects, one in each hand).

b. Indicate they want "more" using gestures, sounds, or looks.

2. Young Toddlers, 9-18 Months

a. Demonstrate interest in simple counting activities.

b. Indicate understanding of the concepts of "more," "all," and "none" using gestures, words, or actions.

3. Older Toddlers, 16-36 Months

a. Rote count to 10 with increasing accuracy.

b. Count a small set of objects (2-3) with one-to-one correspondence.

c. Indicate understanding of the concepts of "one" and "two" using gestures, words, or actions (e.g., child complies when adult says, "Take just one cookie").

d. Recognize a few numerals in the everyday environment.

e. Identify an object or person as first in a sequence.

4. Three Year Olds, 36-48 Months

a. Rote count to 10 with accuracy.

b. Count up to five objects arranged in a line with one-to-one correspondence.

c. Begin to understand that the last number counted represents how many objects are in a group (cardinality).

d. Recognize and name the number of items in a small set (up to three) without counting (subitizing).

e. Compare two groups of objects and indicate whether the number of objects in each group is the same or different.

f. Identify written numerals 0-5 by name and match each to counted objects.

g. Identify the first and often second object or person in a sequence.

5. Four Year Olds, 48-60 Months
 - a. Rote count to 20 with accuracy. Tell what number (1-10) comes next in order by counting.
 - b. Accurately count up to ten objects in a structured arrangement with one-to-one correspondence.
 - c. Tell how many objects are in a group by giving the last number counted (cardinality).
 - d. Recognize and name the number of items in a small set (up to five) without counting (subitizing).
 - e. Compare two groups of objects and identify whether the number of objects in one group is more, less, or the same as the number of objects in the other group.
 - f. Identify written numerals 0-10 by name and match each to counted objects.
 - g. Read and write some numerals up to 10.
 - h. Identify an object's or person's position in a sequence using ordinal numbers (e.g., first; second; third).

B. Patterns and Operations. Standard 2: Children demonstrate knowledge of patterns and operations.

1. Infants, Birth-11 Months
 - a. Demonstrate awareness of repeating sequences in everyday routines.
2. Young Toddlers, 9-18 Months
 - a. Notice and anticipate simple repeating sequences (e.g., go to table for lunch after washing hands).
3. Older Toddlers, 16-36 Months
 - a. Recognize and participate in patterns within stories and in songs.
4. Three Year Olds, 36-48 Months
 - a. Recognize and copy simple repeating patterns in different forms (e.g., red-blue; circle-square).
 - b. Combine and separate small groups of objects and describe the parts. (e.g., I have four cubes. Three are red, and one is blue.).
5. Four Year Olds, 48-60 Months
 - a. Identify, duplicate, extend, and create simple repeating patterns in different forms (e.g., red-red-blue; circle-square-triangle).
 - b. Solve simple addition and subtraction problems by using concrete objects or fingers during play and daily activities (e.g., If we have 3 apples and eat 1, how many apples do we have left?).

C. Measurement. Standard 3: Children measure objects by their various attributes and use differences in attributes to make comparisons.

1. Young Toddlers, 9-18 Months
 - a. Match two objects based on one observable feature.
 - b. Explore objects of different sizes and weights.
2. Older Toddlers, 16-36 Months
 - a. Group objects by one physical characteristic (attribute) (e.g., color; size; shape).
 - b. Make simple comparisons between two objects using measurable attributes (e.g., length; height; weight).
3. Three Year Olds, 36-48 Months
 - a. Sort objects into two or more groups based on one physical characteristic (attribute).
 - b. Describe objects using measurable attributes (e.g., tall/short; big/little; heavy/light).

4. Four Year Olds, 48-60 Months
 - a. Sort objects by one characteristic (attribute), then re-sort using a different characteristic and explain the reasoning with guidance and support.
 - b. Describe measurable attributes of objects and materials using comparative words (e.g., long; longer; longest).
 - c. Compare and order a small set of objects using measurable terms (e.g., length; weight).
 - d. Describe the purpose of simple measurement tools.
 - e. Measure using multiples of the same non-standard unit (e.g., paper clips; snap cubes) with guidance and support.

D. Shapes and Spatial Relationships. Standard 4: Children identify shapes and their properties, and describe the positions of objects in space.

1. Infants, Birth-11 Months
 - a. Explore various shapes through play.
 - b. Explore and respond to the movement of objects, people, or self (e.g., navigate obstacles while crawling to destination).
2. Young Toddlers, 9-18 Months
 - a. Explore the way shapes and objects fit together through play.
 - b. Explore and respond to how things move through space or fit together (e.g., putting smaller objects into a small box and larger objects into a large box).
3. Older Toddlers, 16-36 Months
 - a. Match basic shapes (e.g., circle; square; typical triangle) of the same size and orientation.
 - b. Move their body and objects to follow simple directions related to position (e.g., in; on; under; over; up; down).
4. Three Year Olds, 36-48 Months
 - a. Match a wider variety of shapes with different sizes and orientations.
 - b. Recognize basic shapes (e.g., circle; square; typical triangle).
 - c. Build objects by combining basic shapes (e.g., pictures; tangrams; block structures).
 - d. Move their body and objects to follow simple directions related to proximity (e.g., beside; between; next to).
5. Four Year Olds, 48-60 Months
 - a. Identify basic shapes (e.g., circle; square; triangle; rectangle) regardless of size and orientation.
 - b. Describe basic two- and three-dimensional shapes (e.g., a square has four sides; the ball rolls).
 - c. Create and build shapes using a variety of materials (e.g., popsicle sticks to create a square).
 - d. Identify and respond accurately to positional words indicating location, direction, and distance (e.g., above; below; in front of; near; behind).

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 39:2454 (September 2013), amended LR 49:1705 (October 2023).

§503. Science: Scientific Inquiry [Formerly §305]

A. Science. Standard 1: Children engage in scientific inquiry to explore observable phenomena (objects, materials, organisms, and events) in the physical and natural world.

1. Infants, Birth-11 Months
 - a. Demonstrate interest in objects, materials, people, and/or their environment using their senses.
2. Young Toddlers, 9-18 Months
 - a. Observe and explore the immediate environment using their senses.
 - b. Actively experiment with and explore the physical properties of objects and substances.
 - c. Communicate, verbally or non-verbally, what is seen, heard, or felt when exploring the physical and natural world.
3. Older Toddlers, 16-36 Months
 - a. Observe, ask questions, and make predictions about the physical and natural world, using their senses and simple tools.
 - b. Put materials, substances, and/or objects together in new or unexpected ways to see what will happen.
 - c. Share ideas and thoughts related to interactions with and observations made about the physical and natural world.
4. Three Year Olds, 36-48 Months
 - a. Investigate, observe, ask questions, make predictions, make comparisons, and gather information about the physical and natural world using their senses and simple tools.
 - b. Participate in simple scientific investigations.
 - c. Describe and record findings from investigations they have conducted with prompting and support (e.g., verbally or non-verbally; drawings).
5. Four Year Olds, 48-60 Months
 - a. Observe, ask questions, predict, make comparisons, and gather information about the physical and natural world using their senses, prior knowledge, previous experiences, equipment, and tools.
 - b. Conduct scientific investigations and simple experiments.
 - c. Describe and generate explanations and/or conclusions about investigations they have conducted with guidance and support (e.g., discussions; drawings; graphs).

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 39:2454 (September 2013), amended LR 49:1707 (October 2023).

§505. Social Studies [Formerly §307]

A. Time and Place. Standard 1: Children demonstrate an awareness of time (past, present, and future) and place within the community.

1. Infants, Birth-11 Months
 - a. Demonstrate anticipation of events in daily routines and activities.
2. Young Toddlers, 9-18 Months
 - a. Demonstrate anticipation of events in daily routines and activities using verbal and non-verbal cues.
3. Older Toddlers, 16-36 Months
 - a. Respond (positively or negatively) to changes in routines or schedules.

- b. Demonstrate a general understanding of the passing of time and the meaning of phrases, such as “not now” and “after lunch”.

- c. Recognize familiar landmarks, signs, and buildings in one’s neighborhood/community.

4. Three Year Olds, 36-48 Months

- a. Recall the sequence of daily routines, events, and/or activities that happened at an earlier time.

- b. Communicate an awareness of time using gestures, words, or phrases (e.g., when I was little; when we lived in our old house).

- c. Communicate, with increasing specificity, the location of objects/areas at school, home, and within the community.

5. Four Year Olds, 48-60 Months

- a. Communicate events, activities, and people from the past.

- b. Use time related vocabulary (e.g., today; tomorrow; before; after) with increasing accuracy.

- c. Identify familiar landmarks in their community (e.g., fire station; post office).

- d. Identify the relative location of specific objects and/or features in a familiar environment (e.g., classroom; playground) through drawings or play activities.

B. Cultural Awareness. Standard 2: Children demonstrate an awareness of culture as it relates to self, family, and community.

1. Infants, Birth-11 Months

- a. Demonstrate a preference for familiar versus new individuals.

2. Young Toddlers, 9-18 Months

- a. Distinguish between familiar and new individuals.

- b. Demonstrate an awareness of the characteristics of themselves and others.

3. Older Toddlers, 16-36 Months

- a. Identify known people in pictures.

- b. Identify the distinct characteristics of themselves and others.

- c. Carry out some routines and responsibilities in the classroom with adult support and guidance.

4. Three Year Olds, 36-48 Months

- a. Communicate information about their family and community.

- b. Identify and/or ask questions about the distinct characteristics of groups of people and cultures.

- c. Carry out routines and responsibilities in the classroom with prompting from adults.

5. Four Year Olds, 48-60 Months

- a. Describe familiar elements of one’s family, community, and traditions.

- b. Distinguish the distinct characteristics of groups of people and cultures.

- c. Identify responsibilities of self and others in school, home, and community.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 39:2461 (September 2013), amended LR 49:1707 (October 2023).

§507. Creative Arts

A. Music and Movement. Standard 1: Children engage in multiple and varied music and movement experiences.

1. Infants, Birth-11 Months
 - a. Attend to, vocalize, and/or move body in response to different types of music and/or rhythmic sounds.
 - b. Make sounds and/or music using their bodies, toys, or small, shaker-type instruments.
2. Young Toddlers, 9-18 Months
 - a. Move body in response to the beat and tempo of music and/or rhythmic sounds.
 - b. Imitate sounds and/or music using their bodies and/or small instruments.
3. Older Toddlers, 16-36 Months
 - a. Move body to imitate the beat and tempo of music.
 - b. Imitate sounds and/or music using their bodies, instruments, and/or voice.
4. Three Year Olds, 36-48 Months
 - a. Move body with creativity to imitate the beat and tempo of music of different genres.
 - b. Create music using their bodies, instruments, and/or voice.
5. Four Year Olds, 48-60 Months
 - a. Express thoughts and feelings through dance and movement with increasing spatial awareness.
 - b. Create music using instruments and/or voice to produce more complex rhythms, tones, melodies, and songs. Show increasing awareness of various components of music: melody (tune), pitch (high and low sounds), rhythm (beat), tempo (speed), and volume.

B. Visual Arts. Standard 2: Children engage in multiple and varied visual arts experiences.

1. Infants, Birth-11 Months
 - a. Attend to visual stimuli (e.g., objects with contrasting colors; textured prints).
2. Young Toddlers, 9-18 Months
 - a. Respond to visual art by reaching for, pointing at, touching, or vocalizing/verbalizing.
 - b. Explore a variety of materials to create visual art.
3. Older Toddlers, 16-36 Months
 - a. Observe and respond to visual art by communicating a preference.
 - b. Explore a variety of materials and tools to create visual art.
4. Three Year Olds, 36-48 Months
 - a. Observe and participate in discussions about various forms of art, including what they notice and what it makes them think about.
 - b. Explore a variety of materials, tools, and techniques to create artistic works.
5. Four Year Olds, 48-60 Months
 - a. Observe and participate in discussions about various forms of art, including how it makes them feel, and/or specific elements of art (e.g., color; line; texture).
 - b. Use a variety of materials, tools, and techniques to create artistic works that reflect their own culture, thoughts, feelings, experiences, or knowledge.

C. Dramatic Play. Standard 3: Children engage in multiple and varied forms of dramatic play.

1. Infants, Birth-11 Months
 - a. Imitate behaviors, such as sounds, facial expressions, and gestures of others.
 - b. Respond to volume in tones and inflection.
2. Young Toddlers, 9-18 Months
 - a. Role-play familiar behaviors during play (e.g., rock baby doll; talk on phone).
 - b. Experiment with voice inflection during play.
3. Older Toddlers, 16-36 Months
 - a. Engage in dramatic play that expands beyond personal experiences (e.g., firefighter rescuing people).
 - b. Imitate and repeat voice inflections, such as character or animal sounds.
 - c. Use props and pretend to be someone other than themselves.
4. Three Year Olds, 36-48 Months
 - a. Engage in dramatic play that includes both real-life and fantasy experiences.
 - b. Create various voice inflections and facial expressions in play.
 - c. Engage in play experiences that involve roles with the use of props and costumes.
5. Four Year Olds, 48-60 Months
 - a. Participate in dramatic play to express thoughts, feelings, and creativity.
 - b. Represent a character by using voice inflections and facial expressions.
 - c. Engage in a variety of play experiences that include elements of drama (e.g., roles; dialogue; props).

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 39:2472 (September 2013), amended LR 49:1708 (October 2023).

§509. Physical Development and Well-Being

A. Gross Motor. Standard 1: Children demonstrate large muscle control and coordination.

1. Infants, Birth-11 Months
 - a. Explore the environment with increasing body awareness using senses and movement.
 - b. Demonstrate strength and control of head, trunk, arms, and legs while exploring new body positions and movements (e.g., sitting; crawling; kicking).
 - c. Demonstrate strength and control of one's body while exploring objects in their environment. (e.g., reaching; rolling over).
 - d. Engage in play to develop strength and stamina by continuing purposeful movements over short periods of time (e.g., reaching; pushing; rolling over).
2. Young Toddlers, 9-18 Months
 - a. Coordinate senses with movement to show where their body is in relation to other objects and people in the environment.
 - b. Move in a variety of ways and directions with increasing coordination and balance.
 - c. Maintain control of one's body in various positions while exploring and examining materials, activities, and spaces.

d. Engage in physical play activities for periods of time to develop strength and stamina.

3. Older Toddlers, 16-36 Months

a. Demonstrate body and spatial awareness to guide movement around objects and people.

b. Use large muscle movements (locomotor skills) with increasing control, coordination, and balance (e.g., moving from sitting to standing; jumping).

c. Use a variety of large muscle movements (non-locomotor) during play (e.g., hands in the air; turn around; stand on one foot).

d. Engage in physical play activities for moderate periods of time to develop strength and stamina.

4. Three Year Olds, 36-48 Months

a. Demonstrate body and spatial awareness in physical play activities (e.g., moves around cones).

b. Use large muscle movements (locomotor skills) with control, coordination, and balance (e.g., running; hopping; climbing stairs).

c. Use large muscle movements (non-locomotor) with control, balance, and coordination during active play (e.g., bending; stretching; twisting).

d. Demonstrate strength and stamina that allows for participation in physical play activities for moderate periods of time.

5. Four Year Olds, 48-60 Months

a. Demonstrate increasing awareness of body and space in relation to other people and objects in physical play activities.

b. Coordinate movements of the whole body (locomotor skills) with control and balance to perform more complex tasks.

c. Demonstrate coordination when using objects during active play (e.g., throwing; catching; kicking balls).

d. Demonstrate increased strength and stamina that allows for participation in active play activities for extended periods of time.

B. Fine Motor. Standard 2: Children demonstrate small muscle control and coordination.

1. Infants, Birth-11 Months

a. Use whole hand and fingers to explore objects (e.g., touch; grasp; pick up; bang; transfer).

b. Coordinate eye and hand movements when grasping or picking up objects.

2. Young Toddlers, 9-18 Months

a. Demonstrate control and coordination of hand and fingers (small muscles) to manipulate objects.

b. Coordinate eye and hand movements to explore objects and participate in play activities (e.g., fill containers; stack blocks).

3. Older Toddlers, 16-36 Months

a. Demonstrate increasing control and coordination of hand and fingers (small muscles) while engaged in intentional activities.

b. Coordinate eye and hand movements while performing simple tasks (e.g., using utensils for eating; putting simple puzzles together; stringing large beads).

4. Three Year Olds, 36-48 Months

a. Demonstrate increasing control and coordination of hands, fingers, and wrists (small muscles) to manipulate objects and tools with a purpose.

b. Demonstrate eye-hand coordination to manipulate smaller objects (e.g., large buttons; zippers; scissors) with increasing control.

5. Four Year Olds, 48-60 Months

a. Coordinate the use of hands, fingers, and wrists to manipulate objects and perform activities and tasks with precision.

b. Demonstrate eye-hand coordination to perform complex tasks (e.g., cutting on lines; drawing) with moderate levels of precision and control.

C. Healthy Behaviors. Standard 3: Children will demonstrate healthy and safe behaviors.

1. Infants, Birth-11 Months

a. Engage in active movement (e.g., tummy time; holding head up; kicking legs; waving; rolling over).

2. Young Toddlers, 9-18 Months

a. Engage in active play indoors or outdoors with adult support.

b. Participate in some basic safety practices (e.g., fire/tornado drills).

3. Older Toddlers, 16-36 Months

a. Actively engage in physical activities indoors or outdoors (e.g., dance; hide and seek; climb on equipment).

b. Follow safety rules with adult support.

4. Three Year Olds, 36-48 Months

a. Actively engage in a variety of games, as well as structured and unstructured indoor or outdoor physical activities.

b. Recognize some foods (real or pictures) that are healthy and other foods that are less healthy for the body.

c. Identify safety rules and follow them with guidance from adults.

5. Four Year Olds, 48-60 Months

a. Initiate and engage in a variety of physical activities (e.g., games; exercises) that enhance physical fitness.

b. Identify different foods that are healthy and indicate why a particular food is healthy or unhealthy.

c. Identify and follow safety rules with minimal guidance from adults (e.g., hold an adult's hand when crossing the street; walk rather than run when indoors).

d. Begin to identify and alert others of potential hazards.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6, R.S. 17: 24.4, and R.S. 17:154.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 49:1708 (October 2023).

Shan N. Davis
Executive Director

2310#021

RULE

Board of Elementary and Secondary Education

Bulletin 137—Louisiana Early Learning
Center Licensing Regulations
(LAC 28:CLXI.103, 305, 311, 709, 907,
1103, 1307, and Chapters 15-19)

In accordance with the provisions of R.S. 17:6(A)(10) and the Administrative Procedure Act (APA), R.S. 49:953(B)(1) et seq., the Board of Elementary and Secondary Education has amended LAC 28:CLXI in *Bulletin 137—Louisiana Early Learning Center Licensing Regulations*. Louisiana R.S. 17:407.40 requires a comprehensive review of all standards, rules, and regulations for early learning center license regulations every three years. In compliance with this statute, the Department of Education (LDOE) established a committee of 12 early care and education stakeholders to conduct the required review. The aforementioned revisions include definitions, license regulations, additional license at a single center address, conditions requiring LDOE notice, reporting of critical incidents, staffing and training mandates, child safety equipment, and technical edits. This Rule is hereby adopted on the day of promulgation.

Title 28 EDUCATION

Part CLXI. Bulletin 137—Louisiana Early Learning Center Licensing Regulations

Chapter 1. General Provisions

§103. Definitions

* * *

Capacity—the number of children the provider is licensed to care for at any given time as determined by the Licensing Division.

Care for Children with Disabilities—for licensing purposes, child care for a child birth through age 17 who has a current individualized family services plan (IFSP) or individual education plan (IEP) in accordance with the Individuals with Disabilities Education Act (IDEA) or who receives Supplemental Security Income (SSI).

* * *

Child—person who has not reached age 13, or a person with disabilities who has not yet reached age 18.

Child Care Criminal Background Check (CCCBC)—information received by the department upon request for information pursuant to requirements set forth in R.S. 17:407.42, 45 CFR 98.43(b), and Chapter 18 of this Bulletin.

* * *

Department—Louisiana Department of Education, also referenced as LDOE or LDE.

* * *

License Type—the type of license applied for or held by an early learning center, which include type I, type II, and type III licenses.

Local Education Agency (LEA)—a public board of education or other public authority legally constituted within the state either to provide administrative control or directions of, or perform a service function for, public elementary and secondary schools in a city, parish, school district, or other political subdivision of the state. The term

includes an educational service agency and any other public institution or agency having administrative control and direction of a public elementary or secondary school, including a public charter school that is established as an LEA under state law.

* * *

Office of Public Health—Louisiana Department of Health, Office of Public Health.

OSFM—Office of the State Fire Marshal

* * *

Provisionally Employed Staff Member—a person for whom the center has requested a CCCBC-based determination of eligibility for child care purposes, and for whom the department has received a satisfactory fingerprint-based Louisiana or federal criminal history information record, who is temporarily employed and monitored by the center pending the department's receipt of the other CCCBC results and determination of the person's eligibility for child care purposes.

Quiet Time—a period when children who are in full-time care are provided an appropriate environment for rest or quiet play, such as a child reading a book on a mat.

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AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 and 17:407.31 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:616 (April 2015), effective July 1, 2015, amended LR 41:2103 (October 2015), LR 43:638 (April 2017), LR 44:247 (February 2018), effective March 1, 2018, LR 44:1858 (October 2018), LR 47:1274 (September 2021), LR 49:1710 (October 2023).

Chapter 3. Licensure

§305. Operating Without a License; Registry; Penalties

A. Operating an early learning center without a valid license may result in fines up to \$1,000 per day for each day of such offense.

B. - D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 and 17:407.37.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:619 (April 2015), effective July 1, 2015, amended LR 41:2104 (October 2015), LR 44:1859 (October 2018), LR 45:525 (April 2019), LR 49:1710 (October 2023).

§311. Posting of License

A. Each early learning center shall display its current license in a prominent place at the center where the license is visible to parents and other visitors to the center.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:407.39(D).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:620 (April 2015), effective July 1, 2015, amended LR 49:1710 (October 2023).

Chapter 7. Licensing Process and Procedures

§709. Validity of Licenses

A. - C. ...

D. A new application shall not be processed if an application or license is currently on file with the department for the same location, with the exception of a change of ownership application or, at the discretion of the LDOE, a second application for an early learning center at the same address as an existing Head Start located on LEA property.

E. Two licenses shall not be issued simultaneously for the same physical address except for the license of an early learning center at the same address as a Head Start that is located on LEA property.

F. All early learning care and education provided at a physical address shall be included under one license address except for the license of an early learning center at the same address as a Head Start that is located on LEA property.

G. If an early learning center operates summer and/or holiday camps at the location, such care shall be included under a single license for the location address except for the license of an early learning center at the same address as a Head Start that is located on LEA property.

H. - I. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6, 17:407.39(C), and 17:407.40.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:624 (April 2015), effective July 1, 2015, amended LR 42:554 (April 2016), LR 44:1861 (October 2018), LR 47:1275 (September 2021), LR 49:1710 (October 2023).

Chapter 9. Changes Requiring a New License

§907. Notification of Temporary or Permanent Closure

A. Closures

1. Temporary Closure. A center shall notify the LDOE in writing of a temporary closure of more than 5 calendar days, but fewer than 30 calendar days, within 1 day of closure of the center.

2. Permanent Closure. The provider shall notify the LDOE in writing of a permanent closure of 30 or more calendar days of a center within 7 calendar days of the closure.

B. A center shall make notification to the LDOE prior to making any changes that may have an effect on the license, such as structural changes, adding or removing transportation, or changing age range and/or hours of operation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6, 17:407.39, and 17:407.40.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:625 (April 2015), effective July 1, 2015, amended LR 44:1861 (October 2018), LR 49:1711 (October 2023).

Chapter 11. Operating Violations and Incidents; Fines; Appeals

§1103. Critical Incidents and Required Notifications

A. An early learning center shall make immediate notification to emergency personnel, law enforcement as applicable, and other appropriate agencies for the following types of critical incidents involving children in care:

1. death;
2. serious injury or illness that required medical attention;
3. a child left unsupervised for any amount of time;
4. use of prohibited behavior management as described in §1509. of this Part;
5. allegations or suspicion of child abuse or neglect by center staff;
6. an accident involving the transportation of children;
7. any child given the wrong medication or an overdose of the correct medication;
8. any loss of power over two hours while children are in care;

9. a physical altercation between adults in the presence of children on the premises;

10. reportable infectious diseases and conditions outlined in LAC 51:II.105;

11. any other significant event relating to the health, safety, or well-being of any child, including but not limited to a lost child, an emergency situation, fire or other structural damage, or closure of the center.

B. Prioritization of Notifications. The following shall be notified immediately and in the order listed below as applicable:

1. emergency personnel when dealing with any medical incident.
2. law enforcement.
3. parent.

C. The following, as applicable, shall be notified via email within 24 hours of the incident, or no later than the next business day if the incident occurred on a Friday or on a recognized state holiday:

1. LDOE. This written notification shall be made for all of the critical incidents identified above, shall be made on the LDOE critical incidents report form, and shall contain all information requested on the form.

2. DCFS. Report all incidents that might constitute child endangerment including examples provided in mandated reporting training.

3. LDH. Report all incidents related to LDH regulations such as safety and sanitation issues as well as infectious diseases and conditions.

4. OSFM. Report all incidents related to OSFM regulations.

5. Any other appropriate agencies, including but not limited to, local or city fire marshal or the Department of Environmental Quality.

D. - E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 and 17:407.40.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:625 (April 2015), effective July 1, 2015, amended LR 44:1862 (October 2018), LR 47:1275 (September 2021), LR 49:1711 (October 2023).

Chapter 13. Denial, Revocation or Non-Renewal of License

§1307. Appeal of Denial, Revocation, or Refusal to Renew

A. A center has 30 calendar days to request an appeal of the denial of its application for licensure and 15 calendar days to request an appeal of the revocation of or the refusal to renew its license.

B. The department must receive a written request for an appeal within 30 calendar days of the center's receipt of notice of the denial of its application and within 15 calendar days of the center's receipt of notice of revocation of or refusal to renew its license.

C. - D.2. ...

E. The department shall notify the Division of Administrative Law (DAL) within 10 calendar days of receipt of a timely request for an appeal of the denial of an application or the revocation of or refusal to renew a license.

F. - H. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 and 17:407.45.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:627 (April 2015), effective July 1, 2015, amended LR 41:2106 (October 2015), LR 42:554 (April 2016), LR 44:249 (February 2018), effective March 1, 2018, LR 44:1863 (October 2018), LR 49:1711 (October 2023).

Chapter 15. Minimum General Requirements and Standards

§1503. General Liability Insurance Policy

- A. ...
- B. Repealed.
- C. - E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:407.40.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:629 (April 2015), effective July 1, 2015, LR 49:1712 (October 2023).

§1509. Policies

A. An early learning center shall establish in writing, prominently post or show parent’s signature of receipt, implement, and adhere to the following policies:

- 1. - 8.b.viii. ...
- c. time out:
 - i. the behavior management policy shall address the center’s use of time out, if the center uses time out, including the minimum requirements and shall not be used for children under age two;
 - ii. - iv. ...
- d. the behavior management policy shall establish steps for addressing behaviors identified by the site as dangerous and/or out of control behaviors. Suspension or expulsions should only be considered as a final action after the implementation of behavior support strategies, including at a minimum:

i. engaging parents by written communication and/or parent conference; and

ii. providing a referral to EarlySteps, Child Search, and/or mental health consultant if appropriate.

- 9. - 12.d ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 and 17:407.40(A)(1).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:629 (April 2015), effective July 1, 2015, amended LR 44:250 (February 2018), effective March 1, 2018, LR 44:1864 (October 2018), LR 47:1276 (September 2021), LR 49:1712 (October 2023).

§1511. Procedures

- A. - A.2.b. ...
- c. children ages four and five shall be offered the opportunity for daily quiet time;
- 3. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 and 17:407.40(A)(1).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:630 (April 2015), effective July 1, 2015, amended LR 41:2106 (October 2015), LR 44:1864 (October 2018), LR 49:1712 (October 2023).

Chapter 17. Minimum Staffing Requirements and Standards

§1707. Required Staff

- A. - C. ...
- D. Staff
 - 1. Staff age 18 or older may be included in the child-to-staff ratio and may work without the direct supervision of another adult staff member.

2. Staff age 16 and 17 may be included in the child-to-staff ratio if the person works under the direct supervision of an adult staff member.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 and 17:407.40(A)(3).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:633 (April 2015), effective July 1, 2015, amended LR 41:2107 (October 2015), LR 44:1864 (October 2018), LR 49:1712 (October 2023).

§1711. Child-to-Staff Minimum Ratios

- A. - C. ...
- D. Minimum child-to-staff ratios for centers are as follows.

Minimum Child-to-Staff Ratios	
Ages of Children	Ratio

- E. - F.2. Repealed.
- G. - L.3. ...
- M. Children with Disabilities and Children with Special Health Care Needs—Minimum Child to Staff Ratios. When the nature of a child with special health care needs or the number of children with special health care needs warrants added care, the center shall add sufficient staff as necessary.
- N. Maximum Group Sizes:
 - 1. Maximum group sizes for centers are as follows.

Maximum Group Sizes	
Age of Children	Maximum Group Size

- 2. - 2.b. Repealed.
- AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 and 17:407.40(A)(3).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:633 (April 2015), effective July 1, 2015, amended LR 43:638 (April 2017), LR 44:250 (February 2018), effective March 1, 2018, LR 44:1865 (October 2018), LR 45:525 (April 2019), LR 49:1712 (October 2023).

§1719. Orientation Training

- A. - A.4. ...
- 5. list of children with allergies, children with disabilities, and children with special health care needs;
- 6. - D.5. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 and 17:407.40(A)(1) and (3).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:635 (April 2015), effective July 1, 2015, amended LR 42:555 (April 2016), LR 44:1866 (October 2018), LR 47:1277 (September 2021), LR 49:1712 (October 2023).

§1721. Continuing Education

- A. - A.1. ...
- B. Staff members who are neither left alone with children, nor have supervisory or disciplinary authority over children, shall obtain a minimum of three clock hours of continuing education in job related topics per center’s anniversary year.
- C. - D.12. ...
- E. The three hours of training approved by the LDOE on infectious diseases, health and safety, and/or food service

preparation required in LAC 51:XXI.301.A.9 shall not count towards continuing education hours for staff members.

F. ...

G. Medication administration training approved by the LDOE may count as continuing education in the anniversary year in which it is taken.

H. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 and 17:407.40(A)(1) and (3).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:636 (April 2015), effective July 1, 2015, amended LR 41:2108 (October 2015), LR 42:555 (April 2016), LR 44:251 (February 2018), effective March 1, 2018, LR 44:1866 (October 2018), LR 47:1277 (September 2021), LR 49:1712 (October 2023).

§1723. CPR and First Aid Certifications

A. - E. ...

F. Within 90 calendar days from the date of hire and prior to assuming sole responsibility for any children, each staff member shall have current certification in pediatric first aid and CPR. During this period, caregivers and teachers who provide direct care for children must be supervised until training is completed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 and 17:407.40(A)(1).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:636 (April 2015), effective July 1, 2015, amended LR 44:251 (February 2018), effective March 1, 2018, LR 44:1866 (October 2018), LR 47:1278 (September 2021), LR 48:30 (January 2022), LR 49:32 (January 2023), LR 49:1713 (October 2023).

§1725. Medication Management Training

A. - B. ...

C. Training for auto-injectable epinephrine shall be completed every two years with training approved by the LDOE, a registered nurse, a licensed medical physician, an anaphylaxis training organization, or any other entity approved by the Louisiana Department of Health. Training for medication administration shall be completed every two years with training approved by the LDOE.

D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 and 17:407.40(A)(1).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:636 (April 2015), effective July 1, 2015, amended LR 44:251 (February 2018), effective March 1, 2018, LR 44:1866 (October 2018), LR 47:1278 (September 2021), LR 49:862 (May 2023), LR 49:1713 (October 2023).

Chapter 18. Child Care Criminal Background Checks (CCCBC)

§1804. Provisional Status for Child Care Purposes

A. A person may be provisional for child care purposes if the person:

1. has more than one component of the CCCBC still pending;
2. is employed at any center; and
3. is named in a deficiency for §1509 of this Part.

B. Provisional Employment for Staff Member of Early Learning Centers

1. A center may provisionally employ a staff member for whom the center has requested a CCCBC-based

determination of eligibility for child care purposes, and for whom the LDOE has received a satisfactory fingerprint-based Louisiana or federal criminal history information record, pending the LDOE receipt of the other CCCBC results and determination of the person's eligibility for child care purposes.

2. A provisionally-employed staff member may be counted in child-to-staff ratios but must be monitored at all times in accordance with the following.

a. A monitor of a provisionally-employed staff member must be an adult staff member for whom the center has a CCCBC-based determination of eligibility for child care purposes, and who is designated by the center to monitor a specific provisionally-employed staff member.

b. The center must designate a monitor for each provisionally-employed staff member present at the center.

c. The monitor shall be physically present at the center at all times when the provisionally-employed staff member is present at the center.

d. Monitors must remain within close enough physical proximity of their designated provisionally-employed staff members to be able to intervene at any time if needed.

e. A monitor shall perform at least one visual observation of each designated provisionally-employed staff member every 30 minutes.

f. The center may designate one monitor for up to a maximum of five provisionally-employed staff members at any given time.

g. At least one monitor must be physically present at all times in any room during nap times if a provisionally-employed staff member is present.

3. The center shall have a log, either handwritten or in electronic form, or other written documentation of the monitoring of provisionally-employed staff members that identifies each provisionally-employed staff member, the designated monitor for each, and the times of the visual observations.

AUTHORITY NOTE: Promulgated in accordance with 45 CFR 98.43 and R.S. 15:587.1, and 17:407.42.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 49:1713 (October 2023).

§1807. CCCBC-Based Determinations of Eligibility for Child Care Purposes Required for Owners, Volunteers, Staff, Visitors and Contractors of Early Learning Centers

A. - A.2. ...

B. Volunteers and Staff. An early learning center shall obtain a CCCBC-based determination of eligibility for child care purposes from the department for each volunteer, staff member, or employee of any kind, and shall have documentation of said determination available on the center's CCCBC roster at all times for inspection upon request by the department.

C. - E. ...

AUTHORITY NOTE: Promulgated in accordance with 45 CFR 98.43 and R.S. 15:587.1, 17.6, and 17:407.42.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 44:252 (February 2018), effective March 1, 2018, amended LR 44:1867 (October 2018), LR 49:1713 (October 2023).

§1811. Requests for CCCBC-Based Determinations of Eligibility for Child Care Purposes from the Department

A. - D.1. ...

2. A provisionally-employed staff member may be counted in child to staff ratios, but must be monitored at all times in accordance with the following.

a. A monitor of a provisionally-employed staff member must be an adult staff member for whom the center has a CCCBC-based determination of eligibility for child care purposes within the past five years, who is designated by the center to monitor a specific provisionally-employed staff member.

b. The center must designate a monitor for each provisionally-employed staff member present at the center.

c. Repealed.

d. Monitors must supervise at all times their designated provisionally-employed staff members to be able to intervene at any time if intervention is needed.

e. - g. Repealed.

3. The center shall have a log, either handwritten or in electronic form, or other written documentation of the monitoring of provisionally-employed staff members that identifies each provisionally-employed staff member and the designated monitor for each.

AUTHORITY NOTE: Promulgated in accordance with 45 CFR 98.43, R.S. 15:587.1, and R.S. 407.42.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 44:253 (February 2018), effective March 1, 2018, LR 47:1278 (September 2021), LR 49:1714 (October 2023).

§1815. Fees for CCCBC-Based Determinations of Eligibility for Child Care Purposes

A. - B. ...

1. Repealed.

C. ...

AUTHORITY NOTE: Promulgated in accordance with 45 CFR 98.43, R.S. 15:587.1, and R.S. 407.42.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 44:255 (February 2018), effective March 1, 2018, LR 48:30 (January 2022), LR 49:1714 (October 2023).

Chapter 19. Minimum Health, Safety, and Environment Requirements and Standards

§1907. Furnishings and Equipment

A. Apparatus or Equipment

1. The manufacturer's restraint device shall be used when equipment is occupied by children.

2. Children who are either too small or too large to be restrained using the manufacturer's restraint device shall not be placed in equipment.

B. - G. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:407.40(A)(1).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:638 (April 2015), effective July 1, 2015, amended LR 41:2108 (October 2015), LR 44:256 (February 2018), effective March 1, 2018, LR 47:1279 (September 2021), LR 49:1714 (October 2023).

§1911. Care of Children

A. - F. ...

G. Pacifiers shall not be attached to a child.

H. - K. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:407.40(A)(1).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:638 (April 2015), effective July 1, 2015, LR 47:1279 (September 2021), LR 49:1714 (October 2023).

§1913. Water Activities

A. - F.1. ...

2. For off-site water activities, the center shall have documentation of the current certification of the lifeguard, such as a letter of documentation that the lifeguard has current certification, whether the lifeguard is furnished by the center or the off-site water location.

G. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:407.40(A)(1).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:639 (April 2015), effective July 1, 2015, LR 49:1714 (October 2023).

§1915. Health Services

A. - E. ...

F. Influenza Information. Centers shall make parents aware of information concerning influenza immunization by November 1 of each year. The department shall provide information about influenza annually to each licensed center.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 and 17:407.40(A)(1).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:639 (April 2015), effective July 1, 2015, amended LR 44:1867 (October 2018), LR 49:1714 (October 2023).

§1919. Food Service and Nutrition

A. - B. ...

1. be planned for each day of the week at a minimum and list the specific food items served;

2. be prominently posted, written or electronically, by the first day of each week at a minimum and remain posted throughout the week; and

3. ...

C. Food Allergies and Special Diets

1. Information regarding food allergies and special diets of children shall be posted in the food preparation area with special care taken to ensure that individual names of children are not in public view. If a parent chooses to allow the center to post the child's name and allergy information in public view, the center shall obtain a signed and dated authorization from the parent.

2. Children with allergies or special diets shall not be served foods identified as restricted by the parent.

D. A minimum of a breakfast or morning snack, lunch, and afternoon snack shall be served to children, and meals and snacks shall be served not more than three hours apart.

1. Centers that do not serve breakfast shall have nutritious food available for children who arrive in the morning without having eaten breakfast.

2. Children under age four shall not have foods that are implicated in choking incidents. Examples of these foods include, but are not limited to: whole hot dogs, hot dogs sliced in rounds, raw carrot rounds, whole grapes, hard candy, nuts, seeds, raw peas, hard pretzels, hard chips with the exception of puffs, peanuts, popcorn, whole marshmallows other than when melted in other foods or found in boxed cereals, spoons of peanut butter, and chunks of meat larger than what can be swallowed whole.

D.3. - J. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 and 17:407.40(A)(4).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:640 (April 2015), effective July 1, 2015, amended LR 44:257 (February 2018), effective March 1, 2018, LR 44:1867 (October 2018), LR 47:1279 (September 2021), LR 49:1714 (October 2023).

§1921. Emergency Preparedness and Evacuation Planning

A. - A.3. ...

4. include specific procedures for handling children with disabilities and special health care needs, including the evacuation and transportation of children in wheelchairs;

5. - 11. ...

B. Individualized Emergency Plan. An individualized emergency plan shall be in place for each child with special health care needs and shall include medical contact information and additional supplies and equipment as needed.

C. - E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 and 17:407.40(A)(1).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:641 (April 2015), effective July 1, 2015, amended LR 41:2108 (October 2015), LR 42:2173 (December 2016), LR 44:1867 (October 2018), LR 49:1715 (October 2023).

Shan N. Davis
Executive Director

2310#022

RULE

Board of Elementary and Secondary Education

Bulletin 140—Louisiana Early Childhood Care and Education Network

(LAC 28:CLXVII.103, 503, 509, 511, 513, and 519)

In accordance with the provisions of R.S. 17:6(A)(10) and the Administrative Procedure Act (APA), R.S. 49:953(B)(1) et seq., the Board of Elementary and Secondary Education has amended LAC 28:CLXVII in *Bulletin 140—Louisiana Early Childhood Care and Education Network*. The revisions provide the inclusion in definitions of family child care home with current academic approval for early childhood care and education programs and sites. Further revisions update observation requirements, child-to-teacher ratios, and technical edits. This Rule is hereby adopted on the day of promulgation.

**Title 28
EDUCATION**

Part CLXVII. Bulletin 140—Louisiana Early Childhood Care and Education Network

Chapter 1. General Provisions

§103. Definitions

* * *

Early Childhood Care and Education Program (Program)—an early learning center-based, school-based organization, or family child care home with current academic approval, that is providing early childhood care

and education to children ages birth to five years who have not yet entered kindergarten.

Early Childhood Care and Education Site (Site)—a distinct early learning center-based, school-based location, or family child care home with current academic approval, that is providing early childhood care and education to children ages birth to five years who have not yet entered kindergarten.

* * *

LA 4 Program—the Cecil J. Picard LA 4 Early Childhood Program that provides funding for PreK classrooms for four-year-old children who are eligible to enter kindergarten the following school year.

LDOE—Louisiana Department of Education, may also be referenced as LDE or department.

* * *

Publicly-Funded Early Childhood Care and Education Program—an early learning center-based, school-based organization, or family child care home with current academic approval, that is providing early childhood care and education to children ages birth to five years who have not yet entered kindergarten with funds from either CCAP, Early Head Start, Head Start, NSECD, LA 4 Program, 8(g) block grant, title 1 of ESSA or IDEA part B, other local, state, or federal funds, or that is authorized to receive CCAP, or that participates in the quality start child care rating system.

Publicly-Funded Early Childhood Care and Education Site—a distinct early learning center-based, school-based location, or family child care home with current academic approval, that is providing early childhood care and education to children ages birth to five years who have not yet entered kindergarten in a full-day setting with funds from either CCAP, Early Head Start, Head Start, NSECD, LA 4 Program, 8(g) block grant, title 1 of ESSA or IDEA part B, other local, state, or federal funds, or that is authorized to receive CCAP, or that participates in the quality start child care rating system.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:407.23 and R.S. 17:407.21 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:2580 (December 2015), amended LR 42:1871 (November 2016), LR 44:1438 (August 2018), LR 49:1715 (October 2023).

Chapter 5. Early Childhood Care and Education Accountability System

§503. Coordinated Observation Plan and Observation Requirements

A. Coordinated observation is the local process by which each community network ensures that every classroom, including virtual classrooms, in a publicly-funded site in the community network receives two CLASS® observations each school year.

B. - B.2.b. ...

c. CLASS® observations for pre-K classrooms must include all three Pre-K-3rd CLASS® domains, which are emotional support, classroom organization, and instructional support, and all dimensions contained within.

3. - 4.b....

c. a classroom that has all pre-K children or a classroom that has a mix of toddler and Pre-K children in

which the majority or at least half are pre-K children shall be observed with the Pre-K-3rd CLASS[®];

d. a classroom that has a mix of pre-K and kindergarten age children shall be observed using the Pre-K-3rd CLASS[®] when either the majority of the class is pre-K or if the classroom receives early childhood funding;

4.e. - 5.c.v. ...

d. Observers who receive notification from the LDOE under Clause 5.c.i of this Subsection must meet the reliability requirements of 80 percent accuracy through annual recertification prior to being permitted to complete observations for the community network.

B.5.e. - C.2.b. ...

3. Submission of Observation Schedules

a. For the fall observation period, the observation schedule must be submitted to the LDOE via the Early Childhood CLASS[®] portal or a comparable LDOE-approved system by October 1 unless otherwise specified by the department.

b. For the spring observation period, the observation schedule must be submitted to the LDOE via the Early Childhood CLASS[®] portal or a comparable LDOE-approved system by February 1 unless otherwise specified by the department.

C.3.c. - D.1. ...

2. Lead agencies seeking a waiver shall submit a written request to the LDOE prior to or at the time of the submission of the coordinated enrollment plan. The request shall cite the specific requirement for which a waiver is being requested and shall clearly state the reasons why the waiver is being requested and why it should be granted. Waiver requests shall include any supporting documentation that substantiates the need for the waiver.

D.3. - E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 and 17:407.30 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:2586 (December 2015), amended LR 42:1872 (November 2016), LR 43:2131 (November 2017), LR 44:1440 (August 2018), LR 45:1453 (October 2019), LR 47:452 (April 2021), LR 48:1010 (April 2022), LR 49:1715 (October 2023).

§509. Performance Rating Calculations for Publicly-Funded Sites

A. - A.1. ...

2. For 2020-2021 school year and beyond, the performance rating for each publicly-funded site shall be based on the average of the dimension-level infant, toddler, and pre-K-3 observation results from the fall and spring observation periods for all infant, toddler, and pre-K classrooms within the site, excluding the negative climate dimensions.

a. - 3. ...

4. Sites that have classrooms which receive a score of 3.5 or above for the negative climate dimension and sites that have infant classrooms that receive a “low” on the lack of adult negativity indicator will receive a notice in writing at the end of the observation period in which the score was received. If a site receives a notice for two consecutive observation periods, an indicator of high negative climate, low lack of adult negativity or an indicator for both may be reported on the performance profile. Lack of adult negativity is an indicator used in infant CLASS[®] and is comparable to

the pre-K-3 and toddler negative climate dimension. Like all indicators for CLASS[®], the measure is expressed as “high,” “medium,” or “low” rather than as a numerical score.

B. - G. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 and 17:407.21 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:2587 (December 2015), amended LR 42:1873 (November 2016), LR 44:1442 (August 2018), LR 45:1453 (October 2019), LR 47:1286 (September 2021), LR 48:1010 (April 2022), LR 49:1716 (October 2023).

§511. Performance Rating Calculations for Community Networks

A. - A.3. ...

B. The CLASS[®] observation results will be determined by averaging the results of all fall and spring dimension-level toddler and pre-K-3 observation results for all toddler and pre-K classrooms within the community network excluding negative climate. Beginning in the 2020-2021 school year, the CLASS[®] observation results will be determined by averaging the results of all fall and spring dimension-level infant, toddler, and pre-K observation results for all infant, toddler, and pre-K classrooms within the community network, excluding negative climate.

1. - 2.b.ii. ...

C. The equitable access score performance rating shall be determined by calculating the access achieved by the community network for all at-risk four-year-old children in the community network coverage area. Points are earned on a four-level rating scale according to:

Percentage of At-Risk Four-Year-Olds Served	Rating

65-74.99 percent	Approaching Proficient

D. - I. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 and 17:407.21 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:2588 (December 2015), amended LR 42:1874 (November 2016), LR 44:1442 (August 2018), LR 45:1454 (October 2019), LR 47:1286 (September 2021), LR 49:1716 (October 2023).

§513. Informational Metrics of Best Practices

A. Informational metrics are measures of a publicly-funded site and a community network’s use of the following early childhood care and education best practices. The performance profile shall report the publicly-funded site and community network’s use of the best practices identified as an investment in quality measures, which shall include, but is not limited to:

1. Child-to-teacher ratios. Publicly-funded sites maintain child-to-teacher ratios based on the age of children and that are at or better than the minimum standards required in accordance with LAC 28:CLXI.137 or LAC 28:CLXV.139, as applicable.

a. To achieve gold-level ratios, publicly-funded sites shall at minimum meet the following child-to-teacher ratios.

i. Family Child Care Provider. If any children in care are 24 months old or younger, the maximum child-to-teacher ratio shall be 4:1.

ii. Early Learning Center or School-based Organization. The maximum child-to-teacher ratio shall be as shown below.

Age	Ratio
Birth to 1 year	4:1
1 year to 2 years	4:1
2 years to 3 years	6:1
3 years to 4 years	8:1
4 years to 5 years	10:1

b. To achieve silver-level ratios, publicly-funded sites shall meet at minimum the following child-to-teacher ratios.

i. Family Child Care Provider. If any children in care are 24 months old or younger, the maximum child-to-teacher ratio shall be 5:1.

ii. Early Learning Center or School-based Organization. The maximum child-to-teacher ratio shall be as shown below.

Age	Ratio
Birth to 1 year	4:1
1 year to 2 years	6:1
2 years to 3 years	8:1
3 years to 4 years	10:1
4 years to 5 years	12:1

c. To achieve bronze-level ratios, publicly-funded sites shall meet at least the minimum child-to-teacher ratios.

i. Family Child Care Provider. The maximum child-to-teacher ratio shall be in accordance with LAC 28:CLXV.139.

ii. Early Learning Center or School-based Organization. The maximum child-to-teacher ratio shall be in accordance with LAC 28:CLXI.137.

d. For all levels of ratios, early learning centers or school-based organizations shall meet the group size requirement in accordance with LAC 28:CLXI.137.

A.2. - E.2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:407.21 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:2588 (December 2015), amended LR 42:1875 (November 2016), LR 43:2131 (November 2017), LR 49:1716 (October 2023).

§519. Waivers of Accountability System Requirements

A. - C. ...

D. Any site requesting a waiver from an accountability system requirement for three consecutive observation periods will not be granted a subsequent waiver until a full academic year has elapsed from the most recent waiver approved by the LDOE. If the classroom has no comparable local or third-party scores available, a score of 1.00 shall be assigned to each missing CLASS® domain score, in accordance with §503 of this Chapter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:407.21 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:2590 (December 2015), amended LR 49:1717 (October 2023).

Shan N. Davis
Executive Director

RULE

Board of Elementary and Secondary Education

Bulletin 746—Louisiana Standards for State Certification of School Personnel—Certification Endorsements (LAC 28:CXXXI.1301)

In accordance with the provisions of R.S. 17:6(A)(10) and the Administrative Procedure Act (APA), R.S. 49:953(B)(1) et seq., the Board of Elementary and Secondary Education has amended LAC 28:CXXXI in *Bulletin 746—Louisiana Standards for State Certification of School Personnel*. The revision provides a future effective date relative to certain teacher certification area endorsements. Educators completing course requirements for certification endorsements who are employed as teachers are completing the foundational literacy skills training through the LDOE-approved providers within the local school system. The future effective date aligns add-on endorsements with the effective date for initial certification literacy requirements. This Rule is hereby adopted on the day of promulgation.

**TITLE 28
EDUCATION**

**Part CXXXI. Bulletin 746—Louisiana Standards for State Certification of School Personnel
Chapter 13. Endorsements to Existing Certificates
§1301. Introduction**

A. - C.3. ...

D. The requirements in §1305.A.3; §1307.A.3; §1327.A.3, B.3, C.3, D.3, E.3; and §1329.A.4 of this Chapter, shall be effective beginning September 1, 2024.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), (11), and (15), R.S. 17:7(6), R.S. 17:10, R.S. 17:22(6), R.S. 17:391.1-391.10, and R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 33:2059 (October 2007), LR 48:454 (March 2022), repromulgated LR 48:1062 (April 2022), amended LR 49:1717 (October 2023).

Shan N. Davis
Executive Director

RULE

**Office of the Governor
Office of Homeland Security and
Emergency Preparedness**

Disbursement of Public Resources
(LAC 55:XXI.Chapter 7)

The Office of the Governor, Office of Homeland Security and Emergency Preparedness has adopted LAC 50.XXI.Chapter 7 as authorized by R.S. 29:726(E)(30). This Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:953.1 et seq.

The Office of the Governor, Office of Homeland Security and Emergency Preparedness enacted emergency rules to establish procedures and processes for political subdivisions to request and receive public resources during a state of emergency or disaster. The office has adopted permanent

rules to establish these procedures. This Rule is hereby adopted on the day of promulgation.

Title 55

PUBLIC SAFETY

Part XXI. Homeland Security and Emergency Preparedness

Chapter 7. Disbursement of Public Resources

§701. Definitions

A. As used in this Chapter:

EOC—the Emergency Operations Center.

GOHSEP—the Governor’s Office of Homeland Security and Emergency Preparedness, the state agency responsible for coordinating resources in preparation of and response to emergencies and disasters in the state of Louisiana.

Governing Authority—the body that exercises the legislative functions of the political subdivision. This includes a parish police jury, a parish council, or a municipal council.

Intergovernmental Agreement—a contractual agreement between a local jurisdiction and the federal government, a state government, or another local jurisdiction.

Local Jurisdiction—a political subdivision such as a parish, municipality, or special district.

Local Resources—the assets that a local jurisdiction possesses through ownership, lease, or intergovernmental agreement.

Parish OHSEP—a parish’s Office of Homeland Security and Emergency Preparedness, the parish agency responsible for coordinating resources in preparation of and response to emergencies and disasters in that parish.

Public Resources—assets belonging to the federal government, state government, or other local jurisdictions.

AUTHORITY NOTE: Promulgated in accordance with R.S. 29:726(E)(30).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Homeland Security and Emergency Preparedness, LR 49:1718 (October 2023).

§703. Eligibility and Process for Request of Public Resources

A. In the event of an emergency or disaster, a local jurisdiction must first utilize its own local resources in response to the event. Once a local jurisdiction exhausts all local resources for a particular need, the local jurisdiction may request public resources from GOHSEP.

B. Public resource requests must be submitted through a parish’s OHSEP, which is responsible for establishing its own procedures for receipt and disbursement of those resources throughout the parish. Any municipality or special district within a parish must coordinate with the parish OHSEP to request public resources.

C. A parish OHSEP must submit public resource requests through GOHSEP’s web-based emergency management software. A public resource request must include all of the following:

1. a copy of the local parish or municipal declaration of emergency, unless previously submitted to GOHSEP;
2. a detailed description of the public resource that is being requested;
3. a point of contact with a valid telephone number and email address. This point of contact must be a person with knowledge of the individual resource request who can

answer questions about the request. If GOHSEP is unable to communicate with the point of contact listed in the public resource request in order to obtain additional information, that request will be placed on hold until communication can be established;

4. a valid address to which the public resource may be delivered; and

5. if the parish OHSEP needs to change the address or point of contact information, that change must be made through a comment within the original public resource request. Once a change is made, the parish OHSEP must check the “significant comment” box to notify GOHSEP of the change.

D. If the public resource requested by the parish OHSEP is a consumable that does not need to be returned, the request will be closed once the consumable is delivered. If the public resource is an asset that must be returned, the public resource request will remain open until the parish OHSEP notifies GOHSEP that the asset is no longer needed and it is returned. The parish OHSEP is responsible for updating GOHSEP on the continued need of the public resource.

AUTHORITY NOTE: Promulgated in accordance with R.S. 29:726(E)(30).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Homeland Security and Emergency Preparedness, LR 49:1718 (October 2023).

§705. Emergency Alternative Process for Request of Public Resources

A. If the emergency or disaster disrupts internet connectivity within the parish OHSEP, the following methods of submitting public resource requests will be allowed during that period of disruption:

1. via telephone call to the state EOC;
2. via fax to the state EOC;
3. via radio call to the state EOC through the Louisiana Wireless Information Network (LWIN) on the GOHSEP hailing channel or utilizing amateur radio operators; or
4. via the regional coordinator or area manager serving that parish.

B. After receiving public resource requests through one of these methods, GOHSEP will enter the request into the web-based emergency management software on the parish OHSEP’s behalf. Once internet connectivity at the parish OHSEP is restored, the parish OHSEP must notify GOHSEP. At that point, the parish OHSEP will be responsible for monitoring and updating its public resource requests.

AUTHORITY NOTE: Promulgated in accordance with R.S. 29:726(E)(30).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Homeland Security and Emergency Preparedness, LR 49:1718 (October 2023).

Implementation of the provisions of this Rule may be contingent upon the approval of the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS), if it is determined that submission to CMS for review and approval is required.

Casey Tingle
Director

2310#006

RULE

**Department of Health
Board of Pharmacy**

Marijuana Pharmacy (LAC 46:LIII.Chapter 24)

In accordance with the provisions of the Administrative Procedure Act (R.S. 49:950 et seq.) and the Pharmacy Practice Act (R.S. 37:1161 et seq.), the Board of Pharmacy amended Chapter 24, Subchapter E. of its rules relative to marijuana pharmacies in response to Acts 444 and 491 of the 2022 regular session and in an effort to reduce the number of regulations. The changes repealed §§2440, 2449, 2453, 2459 as well as the definitions of advertisement, approved safe, approved vault, LDAF, and physician. The rule changes replace references to the Department of Agriculture and Forestry (LDAF) with the Department of Health (LDH) and references to physicians with authorized clinicians. The rule changes shift the responsibility of product requirements from the producers which supply the product to the pharmacies which receive and dispense the product.

The rule changes remove requirements for producer testing, packaging, labeling, and distribution; duplication listing bulk raw product in allowed dosage form list; the restriction to ten active marijuana permits at a time, including the description of the 9 LDH regions; the requirement to include a blueprint of the proposed marijuana pharmacy and documentation of the applicant’s financial capacity to operate a marijuana pharmacy with the initial application for a permit; the description of the manner in which the board may verify information contained in each application; the issuance of duplicate permits; the requirement to develop a written alcohol-free, drug-free, and smoke-free workplace policy; the requirement for product to be immediately placed in a safe or vault upon delivery; the inclusion of “federal” in the list of officials that may enter any area of the marijuana pharmacy; the requirement to notify LBP of certain security related events; and the reference to security requirements identified elsewhere in the Subchapter.

The rule changes add the definition of authorized clinician; a requirement for the pharmacy to have access to laboratory tests from the producer; a requirement for each marijuana pharmacy to offer home delivery to patients in each zip code within its region at least once per month; and an allowance for, and requirements related to dispensing marijuana products to visiting qualifying patients.

The rule changes amend the reference to rules and statutes which authorize fees to be collected by the board. This Rule is hereby adopted on the day of promulgation.

Title 46

**PROFESSIONAL AND OCCUPATIONAL
STANDARDS**

Part LIII. Pharmacists

Chapter 24. Limited Service Providers

Subchapter E. Marijuana Pharmacy

§2440. Preamble; Warning; Consultation Suggested

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1046.

HISTORICAL NOTE: Promulgated by the Department of Health, Board of Pharmacy, LR 43:1538 (August 2017), amended LR 48:1902 (July 2022), repealed LR 49:1719 (October 2023).

§2441. Definitions

A. As used in this Subchapter, the following terms shall have the meaning ascribed to them in this Section:

Advertisement—Repealed.

Approved Safe—Repealed.

a. - c. Repealed.

Approved Vault—Repealed.

a. - b.vi.(d). Repealed.

Authorized Clinician—licensed health professionals authorized pursuant to R.S. 40:1046.

LDAF—Repealed.

Pharmaceutical Grade Marijuana—marijuana or marijuana products that are not adulterated and are:

a. - b. ...

c. where each step of the production, cultivating, trimming, curing, manufacturing, processing, and packaging method has been documented by using standard operation procedures verified by the Louisiana Department of Health.

Physician—Repealed.

Producer—a person licensed by the Louisiana Department of Health to cultivate marijuana for therapeutic use.

Production Facility—a secure facility where the production of marijuana occurs and that is operated by a person to whom the Louisiana Department of Health has issued a producer license.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1046.

HISTORICAL NOTE: Promulgated by the Department of Health, Board of Pharmacy, LR 43:1538 (August 2017), amended LR 45:1473 (October 2019), LR 46:1227 (September 2020), amended LR 49:1719 (October 2023).

§2443. Marijuana Products

A. Exclusive Source

1. The exclusive source of marijuana products shall be the producers licensed for that activity by LDH.

2. Repealed.

3. Marijuana products from any other source shall be deemed misbranded and/or adulterated and shall not be received by any marijuana pharmacy, nor may such misbranded and/or adulterated products be dispensed by any marijuana pharmacy.

B. Laboratory Testing

1. - 7. Repealed.

8. The marijuana pharmacy shall have access to the laboratory test results from the producer for each final product acquired by the marijuana pharmacy. The pharmacy shall make such testing results available upon request to their patients, caregivers, and authorized clinicians who recommended such marijuana products dispensed to their patients.

C. Product Dosage Forms

1. The marijuana pharmacy shall limit their dispensing of pharmaceutical grade marijuana products to the following dosage forms:

- a. - h. ...
- i. Repealed.

2. The marijuana pharmacy may dispense other products from raw or crude marijuana, including dried flower, buds, and other plant material, intended for the following methods of administration:

- a. - b. ...

3. No marijuana product shall:

- a. - b.iv. ...

c. have had pesticide chemicals or organic solvents used during the production or manufacturing process other than those which may be approved for use by LDH.

4. ...

D. - E.4.f. Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1046.

HISTORICAL NOTE: Promulgated by the Department of Health, Board of Pharmacy, LR 43:1540 (August 2017), amended LR 45:1473 (October 2019), amended LR 46:568 (April 2020), LR 46:1227 (September 2020), LR 47:590 (May 2021), LR 48:1902 (July 2022), amended LR 49:1719 (October 2023).

§2445. Marijuana Pharmacy Permit

A. - D. ...

E. A marijuana pharmacy permit is non-transferable from one owner to another owner, and moreover, in the event the ownership of the organization that acquired the permit changes by 50 percent or more, then the ownership will be deemed sufficiently different as to require a new marijuana pharmacy permit. A marijuana pharmacy permit owner continuing to operate a marijuana pharmacy after its ownership has changed by 50 percent or more without obtaining a new marijuana pharmacy permit shall be subject to disciplinary review by the board.

F. ...

G. - H. Repealed.

I. - L. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1046.

HISTORICAL NOTE: Promulgated by the Department of Health, Board of Pharmacy, LR 43:1543 (August 2017), amended LR 49:1720 (October 2023).

§2447. Licensing Procedures

A. - A.6.d. ...

e. - e.xi. Repealed.

A.6.f. - A.9. ...

10. - 10.c. Repealed.

11. ...

12. - 12.e. Repealed.

13. The application shall be accompanied by payment of the permit fees and administrative hearing fee authorized by LAC 46:LIII.115 and R.S. 40:1013.

14. - 20. ...

B. - B.1. ...

2. The owner's managing officer and pharmacist-in-charge of the marijuana pharmacy permit shall complete, sign and date a permit renewal application form supplied by the board, and further, shall include all information requested on the form and attach the pharmacy permit renewal fee and state controlled dangerous substance license

renewal fee authorized in LAC 46:LIII.115 and the prescription monitoring program fee authorized in R.S. 40:1013, and further, shall submit the renewal application package to the board office prior to the expiration date of the pharmacy permit.

3. - 4. ...

5. An application for the late renewal of an expired (lapsed) marijuana pharmacy permit that is received in the board office no later than 30 days after the expiration date of the permit may be processed by the board staff, provided the appropriate delinquent fee authorized in LAC 46:LIII.115 is included with the application.

6. - 7. ...

C. Application for Reinstatement of Terminated, Suspended, or Revoked Marijuana Pharmacy Permits

1. The applicant shall complete an application form for this specific purpose supplied by the board; the application shall require the inclusion of the annual renewal fee, the delinquent fee, the administrative hearing fee, and the reinstatement fees authorized in LAC 46:LIII.115 and the program fee authorized in R.S. 40:1013.

2. ...

D. - D.1. ...

2. Repealed.

3. - 4. ...

5. Prior to any change in the location of a marijuana pharmacy, the owner of the permit shall submit an application form for that purpose supplied by the board and pay the appropriate fee authorized in LAC 46:LIII.115. The board may require an inspection of the new location prior to the issuance of the permit for the new location. No marijuana pharmacy shall commence operation in a new location until approved by the board.

6. - 8. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1046.

HISTORICAL NOTE: Promulgated by the Department of Health, Board of Pharmacy, LR 43:1544 (August 2017), amended LR 46:577 (April 2020), LR 48:2102 (August 2022), amended LR 49:1720 (October 2023).

§2449. Marijuana Pharmacy Personnel

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1046.

HISTORICAL NOTE: Promulgated by the Department of Health, Board of Pharmacy, LR 43:1546 (August 2017), amended LR 48:2103 (August 2022), repealed LR 49:1720 (October 2023).

§2451. Operation of Marijuana Pharmacy

A. - K.5. ...

L. Repealed.

M. The receipt of all deliveries from producers shall be carried out under the direct supervision of a pharmacist who shall be present to accept the delivery.

N. - O. ...

P. No person associated with a marijuana pharmacy shall enter into any agreement with an authorized clinician or health care facility concerning the provision of services or equipment that may adversely affect any person's freedom to choose the marijuana pharmacy at which the patient or caregiver will purchase marijuana.

Q. Delivery of Dispensed Marijuana Products

1. A marijuana pharmacy shall dispense a marijuana product to a patient or his caregiver in the marijuana

pharmacy. At the patient's request, the caregiver may deliver a dispensed marijuana product to the patient's location.

2. Each marijuana pharmacy shall offer home delivery to patients in each zip code within its region at least once per month.

3. At the patient or caregiver's request, the marijuana pharmacy may deliver or facilitate the delivery of a dispensed marijuana product to the patient's location.

4. The delivery of a dispensed marijuana product is subject to the following requirements:

a. The marijuana pharmacy shall not deliver or facilitate the delivery of a marijuana product to a location outside the state.

b. The marijuana pharmacy shall ensure the physical integrity and security of the marijuana product while in transit.

c. In the event the delivery of the marijuana product is not completed, the marijuana product shall be returned to the marijuana pharmacy from which it was dispensed.

d. In the event the pharmacist-in-charge of the marijuana pharmacy cannot assure the integrity and security of a returned marijuana product, the pharmacy shall dispose of the marijuana product.

R. ...

S. Board representatives, local law enforcement or other state or local government officials may enter any area of a marijuana pharmacy if necessary to perform their governmental duties.

T. - U. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1046.

HISTORICAL NOTE: Promulgated by the Department of Health, Board of Pharmacy, LR 43:1547 (August 2017), amended LR 46:1227 (September 2020), amended LR 47:590 (May 2021), LR 48:2103 (August 2022), amended LR 49:1720 (October 2023).

§2453. Security Requirements for Marijuana Pharmacies

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1046.

HISTORICAL NOTE: Promulgated by the Department of Health, Board of Pharmacy, LR 43:1548 (August 2017), amended LR 48:1903 (July 2022), repealed LR 49:1721 (October 2023).

§2455. Reportable Security Events

A. - B. ...

C. - D. Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1046.

HISTORICAL NOTE: Promulgated by the Department of Health, Board of Pharmacy, LR 43:1550 (August 2017), amended LR 49:1721 (October 2023).

§2457. Standards of Practice

A. Environmental Standards

1. The prescription department shall be of sufficient size commensurate with the nature and scope of practice. The space occupied by the prescription department shall be restricted to authorized personnel only, as determined by the pharmacist-in-charge, and shall not be accessible to the general public. A marijuana pharmacy shall not permit any person less than eighteen years of age to enter the prescription department, with the exception of patients being counseled by the pharmacist.

2. - 4. ...

5. The prescription department shall be secured by one or more physical barriers with suitable locks and a monitored alarm system capable of detecting unauthorized entry.

A.6. - B.4. ...

5. No person shall be employed by, or affiliated with, a marijuana pharmacy prior to their eighteenth birthday.

C. - C.2.a. ...

D. Recordkeeping Requirements

1. When the pharmacy receives a request for marijuana from a recommending authorized clinician in written form, the pharmacist shall cause the form to be scanned and filed using an electronic imaging system in compliance with §1123 of this Part.

2. - 5. ...

E. Professional Practice Standards

1. Recommendation/Opinion (hereinafter, "request") for Therapeutic Marijuana

a. The pharmacist may accept any request for a marijuana product which has been:

i. issued by an authorized clinician in possession of a current and unrestricted license to practice in this state as well as a current and unrestricted state controlled substance license with therapeutic marijuana privileges from the board; and

ii. received directly from the authorized clinician and not from the patient or any third party other than the entity transmitting the request, either by electronic means conforming with the provisions of 21 CFR 1311 or its successor, or in the alternative, by facsimile bearing a handwritten or digital signature of the authorized clinician.

b. The request shall disclose the following information at a minimum:

i. name, address, telephone number, and national provider identifier (NPI) number of the authorized clinician issuing the request;

ii. - v. ...

vi. self-certification the authorized clinician holds a current and unrestricted license to practice in this state; and

vii. signature of the authorized clinician issuing the recommendation, excluding any proxy or agent.

c. Requests for marijuana products shall expire one year after the date of issue, unless a shorter period of time is indicated by the authorized clinician. A pharmacist shall not dispense marijuana product pursuant to an expired request.

d. - e. ...

2. ...

3. Dispensing Marijuana Products

a. Prior to dispensing any marijuana product to a patient, the pharmacist shall review the patient's records in the state prescription monitoring program. The pharmacist shall resolve any concerns identified in that review by consultation with the recommending authorized clinician.

b. - b.i. ...

ii. Subject to the above limitation on dispensing raw or crude marijuana products, a pharmacist may dispense marijuana products on multiple occasions as indicated by the authorized clinician and needed by the patient until the request expires; however, the pharmacist shall not dispense more than a 90-day supply of marijuana product at one time nor more than a one-year supply pursuant to a single request.

c. Dispensing Marijuana Products to Visiting Qualifying Patients.

i. A visiting qualifying patient may obtain medical marijuana from a marijuana pharmacy, subject to the dispensing limitations of Subparagraph 3.b of this Subsection, upon producing evidence of his valid medical marijuana registry identification card, or its equivalent, which has been issued under the medical marijuana laws of another state, district, territory, commonwealth, or insular possession of the United States and in compliance with R.S. 40:1046.1.

ii. A pharmacist may dispense medical marijuana to a visiting qualifying patient, subject to the dispensing limitations of Subparagraph 3.b of this Subsection, upon obtaining evidence of his valid medical marijuana registry identification card, or its equivalent, which has been issued under the medical marijuana laws of another state, district, territory, commonwealth, or insular possession of the United States and in compliance with R.S. 40:1046.1.

4. Labeling of Marijuana Product Dispensed

a. The pharmacist shall not dispense any marijuana product that does not bear the producer label required by LDH, and further, the pharmacy dispensing label shall not overlay or obscure the producer label in any way.

b. The pharmacy's dispensing label shall contain, at a minimum, the following data elements:

i. - ii. ...

iii. name of the recommending authorized clinician;

4.iv. - 7.e.iv. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1046.

HISTORICAL NOTE: Promulgated by the Department of Health, Board of Pharmacy, LR 43:1550 (August 2017), amended LR 45:1473 (October 2019), LR 47:246 (February 2021), LR 47:1111 (August 2021), LR 48:1903 (July 2022), LR 48:2103 (August 2022), amended LR 49:1721 (October 2023).

§2459. Advertising

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1046.

HISTORICAL NOTE: Promulgated by the Department of Health, Board of Pharmacy, LR 43:1552 (August 2017), repealed LR 49:1722 (October 2023).

M. Joseph Fontenot Jr.
Executive Director

2310#017

RULE

**Department of Health
Board of Pharmacy**

Prescriptions (LAC 46:LIII.2511 and 2519)

In accordance with the provisions of the Administrative Procedure Act (R.S. 49:950 et seq.) and the Pharmacy Practice Act (R.S. 37:1161 et seq.), the Board of Pharmacy has amended §2511 and §2519 of its rules relative to prescriptions. The amended rule changes in §2511 clarify the definition of an electronic prescription, define practitioner, add a description of patient authority to acquire a prescription drug or device, add a requirement for

pharmacies to transfer filled and unfilled prescriptions when requested by the patient, add a definitive list of practitioners authorized to issue prescriptions, address clarification of information required on prescriptions and allow prescription adaptation by the pharmacist. The amended rule changes in §2519 prohibit pharmacies from requesting refill authorization from the prescriber in the absence of a request from the patient, his agent, or his caregiver and clarify that pharmacies may offer their patient an auto-refill service to facilitate refill requests. The implementation of the amended Rule changes caused a reorganization of lettering in the sections. This Rule is hereby adopted on the day of promulgation.

Title 46

**PROFESSIONAL AND OCCUPATIONAL
STANDARDS**

Part LIII. Pharmacists

Chapter 25. Prescriptions, Drugs, and Devices

Subchapter B. Prescriptions

§2511. Prescriptions and Chart Orders

A. Definitions. As used in this Chapter, the following terms shall have the meaning ascribed to them in this Section:

* * *

Electronic Prescription—a prescription generated, signed, and transmitted in electronic form, excluding electronically transmitted facsimile documents.

Practice Affiliation—repealed.

Practitioner—an individual currently licensed, registered, or otherwise authorized by the appropriate licensing board to prescribe and administer drugs in the course of professional practice.

* * *

B. Patient Authority to Acquire Prescription Drug or Device

1. A prescription or chart order represents the lawful authority for a patient, or his agent or caregiver, to acquire a prescription drug or device from a pharmacy licensed to dispense prescription drugs and devices.

2. In the absence of refill instructions on the original prescription, the prescription shall not be refilled. A pharmacist, using his professional judgment, may dispense the total quantity authorized in one transaction, or in the alternative, may dispense partial quantities in multiple transactions, provided however, that the sum of the partial quantities shall not exceed the total quantity authorized.

3. In the event a prescription contains refill instructions, the prescription may be refilled when requested by the patient, or his agent or caregiver. A pharmacist, using his professional judgment, may dispense the quantity authorized for each refill in a single transaction, or in the alternative, may dispense partial quantities in multiple transactions, provided however that the sum of the partial quantities shall not exceed the total quantity authorized.

4. While the documentation of a prescription or chart order shall be retained by the dispensing pharmacy as evidence of its lawful dispensing of the prescription drug, the patient's lawful authority to obtain the drug conveyed by the prescription or chart order shall continue to exist until the earliest of the expiration date of the prescription or chart order, or in the alternative, when the total quantity authorized has been dispensed.

5. In the event a patient, or his agent or caregiver, requests a pharmacy to transfer an unfilled prescription for a medication not listed as a controlled substance to another pharmacy, the pharmacy shall comply with that request as soon as possible, but no later than the end of the next business day.

6. In the event a patient, or his agent or caregiver, requests a pharmacy to transfer the remainder of an unexpired prescription to another pharmacy, the pharmacy shall transfer that prescription information in compliance with the provisions of this Chapter as soon as possible but no later than the end of the next business day. Prior to such transfer, a pharmacy shall not cancel the remainder of an unexpired prescription unless such action is required by law or rule or is requested by the prescriber.

C. Persons Authorized to Issue Prescriptions and Chart Orders

1. A prescription for a drug or device may be issued by a practitioner with valid prescriptive authority.

2. A prescription may be prepared by the agent of the prescriber for the signature of the prescriber, but the prescriber retains accountability for the proper issuance of a valid prescription. A prescriber's agent may communicate a valid prescription to a pharmacy.

3. A pharmacist may issue a prescription when so authorized by law, rule, standing order, or practice agreement.

D. Required Information

1. A prescription shall contain the following data elements:

a. prescriber's name, licensure designation, address, telephone number, and if for a controlled substance, the Drug Enforcement Administration (DEA) registration number;

b. patient's name, and if for a controlled substance, address;

c. date prescription issued by the prescriber;

d. name of drug or device, and if applicable, strength, and quantity to be dispensed;

e. directions for use;

f. signature of the prescriber; and

g. refill instructions, if any. In the absence of refill instructions on the original prescription, the prescription shall not be refilled.

2. In the event a pharmacist receives a prescription or chart order lacking certain required information, the pharmacist, pharmacy intern or certified pharmacy technician may consult with the prescriber or his agent to clarify the prescriber's intent.

E. Manner of Issuance

1. Oral Prescriptions

a. Upon the receipt of an oral prescription from an authorized prescriber, the pharmacist or pharmacy intern or pharmacy technician shall reduce the order to a written form prior to dispensing the medication. As an alternative to recording such prescriptions on paper forms, a pharmacist may enter the prescription information directly into the pharmacy's dispensing information system.

b. In the event a pharmacy intern or pharmacy technician transcribes such a prescription, the supervising pharmacist shall initial or countersign the prescription form prior to processing the prescription.

2. Written Prescriptions. A written prescription shall conform to the following format.

a. The prescription form shall be of a size not less than 4 inches by 5 inches, and shall bear a single printed signature line.

b. The prescription form shall clearly indicate the authorized prescriber's name, licensure designation, address, telephone number, and if for a controlled substance, the Drug Enforcement Administration (DEA) registration number. In the event that multiple practitioners are identified on the prescription form, the authorizing prescriber's specific identity shall be clear and unambiguous. This identification may be indicated by any means, including but not limited to, a marked check box next to, or circling, the authorized prescriber's printed name.

c. No prescription form shall contain more than four active prescription drug orders. Each active prescription drug order on the form shall provide the following:

i. check box labeled "Dispense as Written", or "DAW", or both; and

ii. the number of refills, if any.

d. The prescription shall be written with ink or indelible pencil, typewriter, or printed on a computer printer and shall be manually signed by the practitioner on the date issued and in the same manner as he would sign a check or legal document (e.g., J. H. Smith or John H. Smith). Examples of invalid signatures include rubber stamps, signatures of anyone other than the prescriber, and computer-generated signatures.

e. Receipt via Facsimile

i. Pharmacies may elect to receive written prescriptions via a facsimile machine located within the prescription department. The paper used to print such prescriptions shall produce a non-fading image. The pharmacy may elect to scan such documents in compliance with §1123 of this Part.

ii. Pharmacies may elect to receive written prescriptions via electronic facsimile directly within their pharmacy information system. The pharmacy shall retain such records in compliance with Section 1123 of this Part.

f. Chart orders and forms used by pharmacists to record telephoned or transferred prescriptions are exempt from the format requirements listed in this Section.

3. Electronic Prescriptions

a. The prescription shall clearly indicate the authorized prescriber's name, licensure designation, address, telephone number, and if for a controlled substance, the DEA registration number.

F. Prescription Adaptation

1. With the consent of the patient, or his agent or caregiver, a pharmacist may adapt a prescription drug order or chart order unless the prescriber has indicated adaptation is not permitted, subject to the following limitations:

a. A pharmacist may change the quantity of medication prescribed if:

i. the prescribed quantity or package size is not commercially available;

ii. the change in quantity is related to a change in dosage form;

iii. the change is intended to dispense up to the total amount authorized by the prescriber; or

iv. the change extends a maintenance drug for the limited quantity necessary to coordinate a patient's refills in a medication synchronization program.

b. A pharmacist may change the dosage form of the medication prescribed if it is in the best interest of patient care; however, the pharmacist shall modify the prescriber's directions to ensure an equivalent amount of the medication prescribed is dispensed.

c. A pharmacist may add information missing on the prescription drug order or chart order if there is evidence to support the change.

2. A pharmacist who adapts a prescription drug order or chart order shall document the adaptation in the patient's record.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 14:708 (October 1988), effective January 1, 1989, amended LR 29:2102 (October 2003), effective January 1, 2004, LR 41:98 (January 2015), LR 41:2147 (October 2015), amended by the Department of Health, Board of Pharmacy, LR 43:2162 (November 2017), LR 46:585 (April 2020), LR 47:1644 (November 2021), amended LR 49:1722 (October 2023).

§2519. Prescription Refills; Medication Synchronization and Refill Consolidation

A. Prescription Refills

1. Limitations on Number of Refills

a. The refilling of a prescription for a drug listed in Schedule II is prohibited.

b. A prescription for a drug listed in Schedule III or IV may be refilled up to five times if so indicated at the time issued.

c. A prescription for a drug listed in Schedule V may be refilled without limitation if so indicated at the time issued subject to the one-year expiration date of the prescription.

d. A prescription for a drug not listed as a controlled substance or for a medical device, medical gas, or durable medical equipment may be refilled without limitation if so indicated at the time issued subject to the one year expiration date of the prescription.

2. Refill Authorization. Prescription refills may be dispensed only with the prescriber's authorization, as indicated on the original prescription order. In the absence of the authorized practitioner's instructions on the original prescription, the prescription shall be considered non-refillable. When all refills authorized on the original prescription have been dispensed, then authorization from the prescribing practitioner shall be obtained prior to dispensing; when such authorization has been received, a new prescription shall be prepared and it shall be issued a different prescription number.

3. Patient Request for Continuation of Therapy. When previously authorized refills have been dispensed, or when the previous prescription has expired, and the patient, or his agent or caregiver, requests continuation of therapy, the pharmacy may submit a request to the prescriber for a new prescription. A pharmacy may offer their patient an auto-refill service to facilitate such requests for the life of that

prescription. In the absence of a specific request for continuation of therapy from the patient, or his agent or caregiver, the pharmacy shall not submit a request for continuation of therapy to a prescriber.

4. Dispensing of Refills. Prescription refills authorized by the prescriber shall not be dispensed in the absence of a patient, or his agent or caregiver's, request or approval. A pharmacy may offer their patient an auto-refill service to facilitate such requests. This prohibition shall not apply to refills authorized by the prescriber which are to be dispensed to a patient residing in a long-term care facility.

B. Medication Synchronization and Refill Consolidation. These terms refer to a service which a pharmacist may perform for his patient, at the request of the patient, wherein he may proactively adjust the medication dispensing quantity and/or the refill schedule of a prescription in order to manage the patient's medication therapy, with the goal of improved medication adherence by the patient.

1. For the performance of this service, the pharmacist may adjust the dispensing quantity and/or the refill schedule originally ordered by the prescriber; however, the pharmacist shall not exceed the total quantity prescribed [dispensing quantity multiplied by the total number of fills authorized (original plus refills)], or what is otherwise allowed by law.

2. With respect to prescriptions for controlled substances where refills have been authorized, pharmacists may utilize partial fills, as described in §2747.C.5 of this Part, but may not exceed the dispensing quantity noted on the original prescription.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 14:708 (October 1988), effective January 1, 1989, amended LR 29:2104 (October 2003), effective January 1, 2004, LR 33:1133 (June 2007), amended by the Department of Health, Board of Pharmacy, LR 42:1519 (September 2016), LR 46:575 (April 2020), LR 47:1644 (November 2021), amended LR 49:1724 (October 2023).

M. Joseph Fontenot Jr.
Executive Director

2310#016

RULE

Department of Health Bureau of Health Services Financing

Dental Benefit Plan Manager and Healthy Louisiana
Managed Care Organization Medical Loss Ratio
(LAC 50:I.2111 and 3509)

The Department of Health, Bureau of Health Services Financing has amended LAC 50:I.2111 and §3509 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq. This Rule is hereby adopted on the day of promulgation.

Title 50
PUBLIC HEALTH—MEDICAL ASSISTANCE
Part I. Administration
Subpart 3. Managed Care for Physical and Behavioral Health
Chapter 21. Dental Benefits Prepaid Ambulatory Health Plan
§2111. Payment Methodology

A. - I. ...

J. A DBPM shall have a medical loss ratio (MLR) for each MLR reporting year, which shall align with the capitation rating period, except in circumstances in which the MLR reporting period must be revised to align to a CMS-approved capitation rating period.

1. - 4. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 40:788 (April 2014), amended by the Department of Health, Bureau of Health Services Financing, LR 46:953 (July 2020), LR 47:369 (March 2021), LR 49:1725 (October 2023).

Chapter 35. Managed Care Organization Participation Criteria

§3509. Reimbursement Methodology

A. - E. ...

F. An MCO shall have a medical loss ratio (MLR) for each MLR reporting year, which shall align with the capitation rating period, except in circumstances in which the MLR reporting period must be revised to align to a CMS-approved capitation rating period.

1. - 2. ...

3. An MLR shall be reported in the aggregate, including all services provided under the contract, unless the department requires separate reporting and a separate MLR calculation for specific populations.

F.3.a. - N.2.a. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 37:1587 (June 2011), amended LR 39:92 (January 2013), LR 41:937 (May 2015), LR 41:2367 (November 2015), LR 42:755 (May 2016), amended by the Department of Health, Bureau of Health Services Financing, LR 45:1771 (December 2019), LR 49:1725 (October 2023).

Implementation of the provisions of this Rule may be contingent upon the approval of the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS), if it is determined that submission to CMS for review and approval is required.

Stephen R. Russo, JD
Secretary

2310#052

RULE
Department of Health
Bureau of Health Services Financing

Facility Need Review
Exception Criteria for Bed Approvals
(LAC 48:I.12533)

The Department of Health, Bureau of Health Services Financing has amended LAC 48:I.12533 as authorized by R.S. 36:254 and 40:2116. This Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq. This Rule is hereby adopted on the day of promulgation.

Title 48

PUBLIC HEALTH—GENERAL

Part I. General Administration

Subpart 5. Health Planning

Chapter 125. Facility Need Review

Subchapter F. Exception Criteria for Bed Approvals

§12533. Declared Disasters and Emergency Events

A. The facility need review bed approvals for a licensed and Medicaid certified nursing facility, ICF/DD, or for a licensed adult residential care provider (ARCP) located in an area or areas which have been affected by an executive order or proclamation of emergency or disaster issued in accordance with R.S. 29:724 or R.S. 29:766 shall remain in effect and shall not be terminated, revoked or considered to have expired for a period not to exceed two years for a nursing facility or ARCP, and one year for an ICF/DD, following the original date of such executive order or proclamation, provided that the following conditions are met:

1. the nursing facility, ICF/DD, or ARCP shall submit written notification to the Health Standards Section within 60 days of the date of the executive order or proclamation of emergency or disaster that:

a. the nursing facility, ICF/DD, or ARCP has experienced an interruption in the provision of services as a result of events that are the subject of such executive order or proclamation of emergency or disaster issued in accordance with R.S. 29:724 or R.S. 29:766;

b. - c. ...

* * *

2. A nursing facility, ICF/DD, or ARCP resumes operating as a nursing facility, ICF/DD, or ARCP in the same service area, within two years for a nursing facility or ARCP and within one year for an ICF/DD, of the original executive order or proclamation of emergency or disaster issued in accordance with R.S. 29:724 or R.S. 29:766; and

3. ...

B. For good cause shown, the department may, in its sole discretion, grant two extensions of six months each, for a total of twelve additional months, to a facility described in

Subsection A of this Section, during which time the facility need review approvals shall remain in effect and not be terminated, revoked, or considered to have expired, provided that the following conditions are met:

1. A nursing facility, ICF/DD, or ARCP submits a written extension request to the department 30 days prior to the expiration of the original time period established in Subsection A or the expiration of the first extension granted under these provisions.

a. The written extension request shall include evidence of progress in re-opening, including construction and expenditures on the repairs to or replacement of the facility.

b. The written extension request shall include an estimated re-opening date for the facility.

2. The facility resumes operating as a nursing facility, ICF/DD, ARCP in the same service area, within the time period of the extension(s).

3. The facility continues to submit the required documentation and information to the department.

C. The provisions of this Section shall not apply to:

1. a nursing facility, ICF/DD, or ARCP which has voluntarily surrendered its facility need review bed approval; or

2. a nursing facility, ICF/DD, or ARCP which fails to resume operations as a nursing facility, ICF/DD, or ARCP in the same service area, within two years for a nursing facility or ARCP and within one year for an ICF/DD, or within the deadlines of any extensions granted thereto, of the original executive order or proclamation of emergency or disaster issued in accordance with R.S. 29:724 or R.S. 29:766.

D. Failure to comply with any of the provisions of this Section shall be deemed a voluntary surrender of the facility need review bed approvals.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and 40:2116.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, LR 21:812 (August 1995), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 34:2621 (December 2008), amended LR 35:2439 (November 2009), LR 39:1469 (June 2013), amended by the Department of Health, Bureau of Health Services Financing, LR 49:1725 (October 2023).

Stephen R. Russo, JD
Secretary

2310#053

RULE

Department of Health Bureau of Health Services Financing

Health Services for American Indians
“638” Facilities
(LAC 50:XV.20301)

The Department of Health, Bureau of Health Services Financing has amended LAC 50:XV.20301 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act (SSA). This Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq. This Rule is hereby adopted on the day of promulgation.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part XV. Services for Special Populations

Subpart 15. Health Services for American Indians

Chapter 203. Provider Participation

§20301. “638” Facilities

A. - A.3. ...

B. A “638” facility must:

1. - 2. ...

3. comply with the Medicaid rules and regulations governing those services included in the facility’s encounter rate;

4. ...

5. have a physician affiliated with the clinic that must spend as much time in the facility as is necessary to ensure that patients are receiving services in a safe and efficient manner in accordance with accepted standards of medical, dental, and behavioral health practice, and other health care professionals available as needed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 31:2029 (August 2005), amended by the Department of Health, Bureau of Health Services Financing, LR 49:1726 (October 2023).

Implementation of the provisions of this Rule may be contingent upon the approval of the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS), if it is determined that submission to CMS for review and approval is required.

Stephen R. Russo, JD
Secretary

2310#054

RULE

Department of Health Bureau of Health Services Financing and Office of Aging and Adult Services

Home and Community-Based Services Waivers
Community Choices Waiver
Self-Direction Initiative
(LAC 50:XXI.8501)

The Department of Health, Bureau of Health Services Financing and the Office of Aging and Adult Services has amended LAC 50:XXI.8501 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq. This Rule is hereby adopted on the day of promulgation.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part XXI. Home and Community-Based Services Waivers

Subpart 7. Community Choices Waiver

Chapter 85. Self-Direction Initiative

§8501. Self-Direction Service Option

A. - C.2.d.vi. ...

D. Employee Qualifications. All employees under the self-direction option must:

1. meet the minimum age requirement per LAC 48:I.Chapter 92;

2. - 3. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Aging and Adult Services, LR 37:3523 (December 2011), amended LR 39:321 (February 2013), LR 39:1779 (July 2013), amended by the Department of Health, Bureau of Health Services Financing and the Office of Aging and Adult Services, LR 44:1900 (October 2018), LR: 49:1726 (October 2023).

Implementation of the provisions of this Rule may be contingent upon the approval of the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS), if it is determined that submission to CMS for review and approval is required.

Stephen R. Russo, JD
Secretary

2310#055

RULE

Department of Health Bureau of Health Services Financing and Office for Citizens with Developmental Disabilities

Home and Community-Based Services Waivers
Residential Options Waiver—Self-Direction Initiative
(LAC 50:XXI.16501)

The Department of Health, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities has amended LAC 50:XXI.16501 as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq. This Rule is adopted on the day of promulgation.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part XXI. Home and Community-Based Services Waivers

Subpart 13. Residential Options Waiver

Chapter 165. Self-Direction Initiative

§16501. Self-Direction Service Option

A. - D.3. ...

E. Employees of beneficiaries in the self-direction service option are not employees of the fiscal agent or the department.

1. Employee Qualifications. All employees under the self-direction option must meet the qualifications for furnishing personal care services as set forth in LAC 48:I.Chapter 92.

a - c. Repealed.

F. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office for Citizens with Developmental

Disabilities, LR 33:2455 (November 2007), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 41:2167 (October 2015), amended by the Department of Health, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 47:1525 (October 2021), LR 48:1572 (June 2022), LR 49:1727 (October 2023).

Implementation of the provisions of this Rule may be contingent upon the approval of the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS), if it is determined that submission to CMS for review and approval is required.

Stephen R. Russo, JD
Secretary

2310#056

RULE

Department of Health Bureau of Health Services Financing

Managed Care for Physical and Behavioral Health
Reimbursement Methodology
(LAC 50:I.3509)

The Department of Health, Bureau of Health Services Financing has amended LAC 50:I.3509 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq. This Rule is hereby adopted on the day of promulgation.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part I. Administration

Subpart 3. Managed Care for Physical and Behavioral Health

Chapter 35. Managed Care Organization Participation Criteria

§3509. Reimbursement Methodology

A. - K.1. ...

L. Network Provider Reimbursement

1. - 2.a. ...

3. The MCO shall pay federally qualified health centers (FQHCs) and rural health clinics (RHCs) at least the amount LDH would pay for such services through fee-for-service or defined by the prospective payment system (PPS) rate or the alternative payment methodology rate in effect on the date of service for each encounter.

M. - N.2.a. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 37:1587 (June 2011), amended LR 39:92 (January 2013), LR 41:937 (May 2015), LR 41:2367 (November 2015), LR 42:755 (May 2016), amended by the Department of Health, Bureau of Health Services Financing, LR 45:1771 (December 2019), LR 49:1727 (October 2023).

Implementation of the provisions of this Rule may be contingent upon the approval of the U.S. Department of Health and Human Services, Centers for Medicare and

Medicaid Services (CMS), if it is determined that submission to CMS for review and approval is required.

Stephen R. Russo, JD
Secretary

2310#057

RULE

Department of Health Bureau of Health Services Financing

Medicaid Eligibility
Former Foster Care Children Group
(LAC 50:III.2308)

The Department of Health, Bureau of Health Services Financing has amended LAC 50:III.2308 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq. This Rule is hereby adopted on the day of promulgation.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part III. Eligibility

Subpart 3. Eligibility Groups and Factors

Chapter 23. Eligibility Groups and Medicaid Programs

§2308. Former Foster Care Children Group

A. Pursuant to the Patient Protection and Affordable Care Act of 2010 (collectively referred to as the Affordable Care Act), the Department of Health implemented a Medicaid eligibility group, effective December 31, 2013, to provide health care coverage to youth who are transitioning out of foster care to self-sufficiency upon reaching age 18 or at a higher age selected by the department. This eligibility group is called former foster care children group.

B. Eligibility Requirements

1. For youth who turned age 18 prior to January 1, 2023, the youth must meet all of the following requirements to receive Medicaid health care coverage under this eligibility group:

a. be from age 18 to 26 years old;

b. is not eligible or enrolled in another mandatory eligibility group described in sections 1902(a)(10)(A)(i)(I)-(VII) of the Social Security Act;

c. was in foster care under Louisiana's custody and receiving Medicaid upon turning age 18 or upon aging out of foster care at a higher age elected by the state in its title IV-E plan (up to age 21); and

d. resides in Louisiana.

2. For youth who turned age 18 on or after January 1, 2023, the youth must meet all of the following requirements to receive Medicaid health care coverage under this eligibility group:

a. be from age 18 to 26 years old;

b. is not enrolled in another mandatory eligibility group described in sections 1902(a)(10)(A)(i)(I)-(VII) of the Social Security Act;

c. was in foster care under the responsibility of any state and receiving Medicaid upon turning age 18 or such higher age (up to 21) as the state has elected in its title IV-E plan; and

d. resides in Louisiana.

3. Repealed.

C. - D.1. ...

E. Eligibility for the program will continue until the youth reaches age 26 unless the youth:

1. ...
2. requests closure of the case; or
3. dies.
4. Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 40:2260 (November 2014), amended by the Department of Health, Bureau of Health Services Financing, LR 43:1389 (July 2017), LR 49:1728 (October 2023).

Implementation of the provisions of this Rule may be contingent upon the approval of the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS), if it is determined that submission to CMS for review and approval is required.

Stephen R. Russo, JD
Secretary

2310#058

RULE

Department of Health Bureau of Health Services Financing

Nurse Staffing Agencies
Licensing Standards
(LAC 48:I.Chapter 77)

The Department of Health, Bureau of Health Services Financing has adopted LAC 48:I.Chapter 77 as authorized by R.S. 36:254. This Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq. This Rule is hereby adopted on the day of promulgation.

Title 48

PUBLIC HEALTH—GENERAL

Part I. General Administration

Subpart 3. Licensing and Certification

Chapter 77. Nursing Staffing Agencies Licensing Standards

Subchapter A. General Provisions

§7701. Introduction

A. No nurse staffing agency (NSA) shall be required to obtain a license in accordance with these rules until the initial Rules, regulations, and licensing standards are promulgated by the department in accordance with the Administrative Procedure Act.

B. Any person, partnership, corporation, unincorporated association, or other legal entity operating an agency that meets the definition of an NSA shall submit an initial

licensing application and fee to the department within 90 days of the promulgation of the initial rules, regulations, and licensing standards.

1. If the person, partnership, corporation, unincorporated association, or other legal entity is not licensed within 180 days after submission of its initial licensing application and fee, the person, partnership, corporation, unincorporated association, or other legal entity shall cease operations until such time as the person, partnership, corporation, unincorporated association, or other legal entity is licensed as an NSA by the department.

C. No person, partnership, corporation, unincorporated association, or other legal entity may establish, operate, maintain, or advertise as an NSA in Louisiana unless the person, partnership, corporation, unincorporated association, or other legal entity is licensed by the department.

D. Nurse staffing agencies are prohibited from requiring, as a condition of employment, assignment, or referral, that their employees or contracted staff recruit new employees for the NSA from among the permanent employees of the healthcare facility to which the NSA employees or contracted staff have been assigned or referred.

E. The healthcare facility that employs or contracts staff from the NSA is prohibited from requiring, as a condition of employment, its employees to recruit NSA employees or contracted staff to become permanent employees at the healthcare facility.

F. Nurse staffing agencies are prohibited from offering or providing financial incentives to their employees, or contracted staff, for the purpose of inducing permanent employees of healthcare facilities to which they are assigned to become employed or enter into a contract with the NSA.

G. Except as provided in Paragraphs 1. and 2. of this Subsection, an NSA shall not require, in any contract with an NSA employee or contracted staff, or a healthcare facility to which the employee or contracted staff is assigned, the payment of a fee if the employee or contracted staff is hired as a permanent employee of the healthcare facility.

1. An NSA may require the payment of a fee if the fee is payable solely by the healthcare facility and the contract with the healthcare facility specifies that the amount will be reduced pro-rata based on the length of time the NSA employee or contracted staff performs services for the healthcare facility while in the employment of the NSA. The fee shall be reduced to zero over a period of time not to exceed 18 weeks from the date of the NSA's initial assignment of the employee or contracted staff to the healthcare facility.

2. The NSA shall not charge a fee if an NSA employee or contracted staff was employed by a healthcare facility as a permanent employee less than 30 days immediately preceding the agency's initial assignment of the employee or contracted staff to the healthcare facility.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 49:1728 (October 2023).

§7703. Definitions

Administrator or Director—the person who is in charge of the daily operations of the NSA.

Authorized Agency—a private entity authorized by the Office of State Police to conduct the criminal history checks provided for in these regulations. Nothing herein shall be construed as expanding the access to confidential law enforcement records of the state of Louisiana or its political subdivisions or authorizing access by said agency to the computerized records of law enforcement agencies.

Certified Nurse Aide (CNA)—an individual who has completed a Nurse Aide Training and Competency Evaluation Program approved by the state as meeting the requirements of 42 CFR 483.151 and 483.154, or has been determined competent as provided in 42 CFR 483.150(a) and (b) and is listed as certified and in good standing on the state's certified nurse aide registry.

Cessation of Business—provider is non-operational and/or has stopped offering or providing services in the state.

Change of Ownership (CHOW)—the addition, substitution, or removal, whether by sale, transfer, lease, gift, or otherwise, of a licensed NSA subject to this rule by a person, corporation, or other entity which results in a change of controlling interest of assets or other equity interests of the licensed entity may constitute a CHOW of the licensed entity.

Client—the licensed healthcare facility or agency to which the registered nurse, licensed practical nurse, or certified nursing assistant is assigned on a temporary basis.

DAL—Division of Administrative Law, or its successor.

Department—the Louisiana Department of Health (LDH) or any office or agency thereof designated by the secretary of the department.

Employee or Contracted Staff—person employed by the nurse staffing agency or contracted by the nurse staffing agency to perform healthcare services in a healthcare facility for compensation, such as wages or a salary. An employed person may be one who is contracted or one who is hired for a staff position. This definition does not include a person employed or contracted to provide solely consulting services.

Geographic Location—primary business location that the nurse staffing agency operates from, as indicated on the NSA license.

Healthcare Facility—any person, partnership, corporation, unincorporated association, or other legal entity licensed pursuant to R.S. 40:2006 (A)(2), or current law, and operating or planning to operate within the state.

HSS—the LDH, Office of the Secretary, Health Standards Section.

Licensee—any nurse staffing agency properly licensed in accordance with this Rule.

Licensed Practical Nurse (LPN)—a person who practices practical nursing and who is licensed to practice practical nursing in accordance with R.S. 38:961, or current law.

Line of Credit—a credit arrangement with a federally insured, licensed lending institution that is established to ensure that the NSA has available funds as needed to

continue the operations of the agency. The line of credit shall be issued to the licensed entity. For purposes of NSA licensure, the line of credit shall not be a loan, credit card, or a bank balance.

Non-Operational—the NSA location is not open for business operation on designated days and hours as stated on the licensing application.

Nurse—a registered nurse as defined in R.S. 37:913, or current law, or a licensed practical nurse as defined in R.S. 37:961, or current law.

Nurse Staffing Agency (NSA)—any person, partnership, corporation, unincorporated association, or other legal entity, including a digital website/platform, that employs, assigns, or refers nurses or certified nurse aides to render healthcare services in a healthcare facility for a fee. For purposes of these regulations, NSA does not include the following:

1. An NSA that solely provides services in Louisiana under a contract or other agreement with the state of Louisiana, or any executive branch department or agency thereof, as a result of a declared disaster, emergency, or public health emergency.

2. The federal or state government department or agency that provides nursing staff or certified nurse aides to any healthcare provider setting, evacuation site, or shelter location as a result of a declared disaster, emergency, or public health emergency.

3. An entity that solely provides administrative or consulting services.

Registered Agent—the individual designated by the NSA as agent for service of process, notice, or demand required or permitted by Louisiana law to be served on the NSA business entity, and has a physical address in the state of Louisiana. If the registered agent is a corporation or other eligible business entity, service of process may be made on an individual, who is 18 years of age or older, and identified as authorized to receive service for the registered agent in a statement on file with the Louisiana Secretary of State.

Registered Nurse (RN)—any individual licensed in accordance with R.S. 37:911 et seq., or current law, to engage in the practice of nursing as defined in R.S. 37:913, or current law.

Secretary—the secretary of the Louisiana Department of Health, or his/her designee.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 49:1729 (October 2023).

§7705. Licensure Requirements

A. All NSA providers shall be licensed by the LDH. It shall be unlawful to operate as an NSA without possessing a current, valid license issued by the department. The LDH is the only licensing authority for NSAs in Louisiana.

B. An NSA license shall:

1. be issued only to the entity, person, or persons named in the license application;

2. be obtained for each location from which an NSA is operated unless the NSA is owned and managed by the same entity, person, or persons;

3. be valid for two years from the date of issuance, unless revoked prior to that date, or unless a provisional license is issued;

4. expire on the last day of the twenty-fourth month after the date of issuance, unless timely renewed by the NSA;

5. not be subject to sale, assignment, donation, or other transfer, whether voluntary or involuntary; and

6. be posted in a conspicuous place on the licensed premises at all times.

C. In order for the NSA to be considered operational and retain licensed status, the NSA shall be open for business operations on designated days and hours as stated on the licensing application.

1. The business location shall not be located in an occupied personal residence.

2. The business location shall have at least one employee or contracted staff, on duty at the business location or available by telecommunication during the days and hours of operation as stated on the licensing application.

3. The NSA shall have at least one published business telephone number.

D. The licensed NSA shall abide by and adhere to any federal or state law, Rule, policy, procedure, manual, or memorandum pertaining to NSAs.

E. A separately licensed NSA shall not use a name which is substantially the same as the name of another NSA licensed by the department. A NSA provider shall not use a name which is likely to mislead an individual or individuals receiving services into believing it is owned, endorsed, or operated by the state.

F. The NSA shall maintain general and professional liability insurance, and worker's compensation insurance in effect at the time of initial license application and license renewal, and maintained and in effect throughout the term of the license.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 49:1730 (October 2023).

§7707. Initial Licensure Application Process

A. An initial application for licensing as an NSA shall be made to the department on forms provided by the department. A completed initial license application packet for NSAs shall be submitted to and approved by the department prior to an applicant providing NSA services.

B. The initial licensing application packet shall include:

1. a completed NSA licensure application and the appropriate non-refundable licensing fee as established by statute. The license application shall contain the name and address of the person, partnership, corporation, unincorporated association, or other legal entity that is the applicant, and the name and address of the registered agent;

2. if applicable, a copy of the NSA's articles of incorporation or organization, a copy of its current bylaws, and the names and addresses of its officers, administrator/director, and shareholders owning more than 5 percent of the corporation's stock;

3. a copy of verification of current active business with the Secretary of State, or equivalent state business registry, which references the current registered agent;

4. a copy of the organizational chart of the NSA, including the names and addresses of the person or persons under whose management or supervision the NSA will be operated;

5. a statement detailing the experience and qualifications of the applicant to operate an NSA;

6. a statement of financial solvency, comprised of the following:

a. a line of credit issued from a federally insured, licensed lending institution in the amount of at least \$25,000 that is:

i. current and in effect at the time of submission of the application for licensure; and

ii. issued to and in the name of the applicant shown on the application for licensure;

b. general and professional liability insurance in an amount sufficient to provide coverage in accordance with the total amount recoverable for all malpractice claims as indicated in R.S. 40:1231.2, or current law; and

c. worker's compensation insurance that is in compliance with the Louisiana Workers' Compensation Law, R.S. 23:1020.1 et seq., or current law, with a minimum coverage in the amount of \$1,000,000 that is current and in effect at the time of submission of the license application;

7. proof that the LDH, HSS is specifically identified as the certificate holder on any policies and any certificates of insurance issued as proof of insurance by the insurer or producer (agent);

8. a copy of a statewide criminal background check including sex offender registry status, on all applicant(s), owner(s) with 5 percent or more ownership interest, and administrator/director, for any state lived in within the last five years;

9. a completed disclosure of ownership and control information form;

10. a statement of the days and hours of operation; and

11. any other relevant documentation or information required by the department for licensure.

C. A person convicted of one or more of the following felonies is prohibited from being the owner(s), or the administrator/director of an NSA. For purposes of these provisions, the licensing application shall be rejected by the department for any felony conviction relating to:

1. the violence, abuse, or negligence of a person;

2. the misappropriation of property belonging to another person;

3. cruelty, exploitation, or the sexual battery of the infirmed;

4. a drug offense;

5. crimes of a sexual nature;

6. a firearm or deadly weapon;

7. Medicare or Medicaid fraud; or

8. fraud or misappropriation of federal or state funds.

D. If the initial licensing packet is incomplete, the applicant shall be notified of the missing information and shall have 90 days from receipt of the notification to submit the additional requested information.

1. If the additional requested information is not submitted to the department within 90 days, the application shall be closed.

2. If an initial licensing application is closed, an applicant who is still interested in becoming an NSA shall submit a new initial licensing packet with a new initial non-refundable licensing fee to start the initial licensing process.

E. Once the initial licensing application packet has been approved by the department, the NSA applicant shall notify

the department of readiness for an initial licensing survey within 90 days.

1. If an applicant fails to notify the department of readiness for an initial licensing survey within 90 days of approval, the initial licensing application shall be closed. After an initial licensing application is closed, an applicant who is still interested in becoming a NSA must submit a new initial licensing packet with a new initial non-refundable licensing fee to start the initial licensing process.

F. Applicant shall be in compliance with all federal, state, departmental, or local statutes, laws, ordinances, rules, and regulations, and all non-refundable fees shall be paid before the NSA provider will be issued an initial license to operate.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 49:1730 (October 2023).

§7709. Initial Licensing Surveys

A. Prior to the initial license being issued to the NSA, an initial licensing survey shall be conducted to ensure compliance with the NSA licensing laws and standards. Except for existing NSAs who timely apply for a license under §7701 of this Chapter, no NSA services shall be provided by the NSA until the initial licensing survey has been performed, the NSA has been found in compliance, and the initial license has been issued to the NSA by the department. An existing NSA that timely applies for a license must receive a license within 180 days in order to continue to provide services.

B. In the event that the initial licensing survey finds that the NSA is compliant with all licensing laws, regulations, and any other required statutes, laws, ordinances, rules, regulations, and non-refundable fees, the department shall issue a full license to the provider. The license shall be valid until the expiration date shown on the license, unless the license is revoked.

C. In the event that the initial licensing survey finds that the NSA is noncompliant with any licensing laws, regulations, or any other required statutes, laws, ordinances, rules or regulations that present a potential threat to the health, safety, or welfare of an individual or individuals receiving services, the department shall deny the initial license.

D. In the event that the initial licensing survey finds that the NSA is deficient or noncompliant with any licensing laws, regulations, or any other required statutes, laws, ordinances, rules or regulations, but the department in its sole discretion determines that the deficiency or noncompliance does not present a threat to the health, safety, or welfare of an individual or individuals receiving services, the department may issue a provisional initial license for a period not to exceed six months.

1. The provider shall submit an acceptable plan of correction to the department for approval, and the NSA shall be required to correct all such deficiencies or noncompliance(s) prior to the expiration of the provisional license.

a. If all such deficiencies or noncompliance(s) are corrected on the follow-up survey, a full license will be issued.

b. If all such deficiencies or noncompliance(s) are not corrected on the follow-up survey, or new deficiencies or noncompliance(s) affecting the health, safety, or welfare of an individual or individuals receiving services is cited, the provisional license shall expire and the provider shall be required to begin the initial licensing process again by submitting a new initial license application packet and the appropriate non-refundable licensing fee.

E. The initial licensing survey of a NSA shall be an announced survey. Follow-up surveys to the initial licensing surveys shall be unannounced surveys.

F. Once a NSA has been issued an initial license, the department shall conduct licensing and other surveys at intervals deemed necessary by the department to determine compliance with licensing standards and regulations, as well as other required statutes, laws, ordinances, rules, regulations, and fees.

1. A plan of correction may be required from a NSA for any survey where deficiencies or noncompliance(s) have been cited. Such plan of correction shall be approved by the department.

2. A follow-up survey may be conducted for any survey where deficiencies or noncompliance(s) have been cited to ensure correction of the noncompliant or deficient practice(s).

G. The department's surveyors and staff shall be given access to all areas of the NSA and all relevant files during any licensing or other survey or complaint investigation, and shall be allowed to interview any NSA staff as necessary to conduct the complaint investigation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 49:1731 (October 2023).

§7711. Types of Licenses and Expiration Dates

A. The department shall have the authority to issue the following types of licenses:

1. Full Initial License. The department shall issue a full license to the NSA when the initial licensing survey finds that the NSA is compliant with all licensing laws and regulations, and is compliant with all other required statutes, laws, ordinances, rules, regulations, and all non-refundable fees have been paid. The license shall be valid until the expiration date shown on the license, unless the license is revoked.

2. Provisional Initial License. The department may issue a provisional initial license to the NSA when the initial licensing survey finds that the NSA is deficient or noncompliant with any licensing laws or regulations or any other required statutes, laws, ordinances, rules, regulations or non-refundable fees, but the department determines that the deficiencies or noncompliance(s) do not present a threat to the health, safety, or welfare of an individual or individuals receiving services.

3. Full Renewal License. The department may issue a full renewal license to an existing licensed NSA who is in substantial compliance with all applicable federal, state, departmental, and local statutes, laws, ordinances, rules, regulations, and non-refundable fees. The license shall be valid until the expiration date shown on the license, unless the license is revoked.

4. Provisional Renewal License. The department, in its sole discretion, may issue a provisional license to an existing licensed NSA for a period not to exceed six months.

a. The department will consider the following circumstances in making a determination to issue a provisional license:

i. compliance history of the NSA to include areas of deficiencies or noncompliance(s) cited;

ii. the nature and severity of any substantiated complaints;

iii. the existing NSA has more than six validated complaints in one biennial licensed period;

iv. the existing NSA has been issued a deficiency or noncompliance that involved placing an individual or individuals receiving services at risk for serious harm or death;

v. the existing NSA has failed to correct deficiencies or noncompliant practice(s) within 60 days of being cited for such deficiencies or noncompliant practice(s) or at the time of a follow-up survey; or

vi. the existing NSA is not in substantial compliance with all applicable federal, state, departmental and local statutes, laws, ordinances, rules, regulations, and non-refundable fees at the time of renewal of the license.

b. When the department issues a provisional license to an existing licensed NSA, the NSA shall submit a plan of correction to LDH for approval, and the NSA shall be required to correct all such deficiencies or noncompliant practice(s) prior to the expiration of the provisional license. The department shall conduct a follow-up survey of the NSA prior to the expiration of the provisional license.

i. If the follow-up survey determines that the NSA has corrected the deficiencies or noncompliant practice(s) and has maintained compliance during the period of the provisional license, the department may issue a full license until the anniversary date of the NSA license.

ii. If the follow-up survey determines that all deficiencies or noncompliance(s) have not been corrected, or if new deficiencies or noncompliance(s) that are a threat to the health, safety, or welfare of an individual or individuals receiving services are cited on the follow-up survey, the provisional license shall expire. The NSA shall be required to begin the initial licensing process again by submitting a new initial license application packet and appropriate non-refundable fee.

iii. The department shall issue written notice to the NSA of the results of the follow-up survey.

B. If an existing licensed NSA has been issued a notice of license revocation and the NSA's license is due for biennial renewal, the department shall deny the license renewal application and shall not issue a renewal license.

1. If a timely administrative appeal has been filed by the NSA regarding the license revocation, suspension, or termination, the administrative appeal shall be suspensive, and the NSA shall be allowed to continue to operate and provide services until such time as the DAL or department issues a decision on the license revocation, suspension, or termination.

2. If the secretary of the department determines that the violations of the NSA pose an imminent or immediate threat to the health, welfare, or safety of an individual or

individuals receiving services, the imposition of such action may be immediate and may be enforced during the pendency of the administrative appeal. If the secretary of the department makes such a determination, the NSA will be notified in writing.

3. The denial of the license renewal application does not affect, in any manner, the license revocation, suspension, or termination.

C. The renewal of a license does not affect, in any manner, any sanction, civil fine, or other action imposed by the department against the NSA.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 49:1732 (October 2023).

§7713. Changes in Licensee Information, Location, or Key Personnel

A. Any change regarding the NSA's entity name, doing business as name, geographic address, mailing address, telephone number, or any combination thereof, shall be reported in writing to the HSS within five working days of the change.

B. Any change regarding the NSA's key administrative personnel or registered agent shall be reported in writing to the HSS within 10 working days subsequent to the change.

1. The NSA's notice to the department shall include the individual's:

- a. name;
- b. address;
- c. telephone number;
- d. facsimile (fax) number, if applicable;
- e. electronic mail address;
- f. hire date; and
- g. qualifications, if applicable.

C. If the NSA changes its name without a change in ownership, the NSA shall report such change to the department in writing five days prior to the change.

1. The change in the NSA name requires a change in the NSA license.

2. Payment of the applicable non-refundable, fee is required to re-issue the license.

D. If the NSA changes the physical address of its geographic location without a change in ownership, the NSA shall report such change to LDH in writing at least five days prior to the change. Because the license of a NSA is valid only for the geographic location of that NSA, and is not transferrable or assignable, the NSA shall submit a new licensing application.

1. A survey may be required prior to the issuance of the new license.

2. The change in the NSA's physical address results in a new license renewal anniversary date, and an additional full licensing non-refundable fee shall be paid.

E. Any request for a duplicate license shall be accompanied by the applicable non-refundable fee.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 49:1733 (October 2023).

§7715. Change of Ownership of a Nurse Staffing Agency Provider

A. The license of an NSA is not transferable or assignable and cannot be sold. When an NSA is sold or ownership is transferred, the transferee shall notify the department and apply for a new license within 45 days prior to the transfer.

B. Before a license can be issued to the new owner, the new owner shall meet all licensing application requirements. The new owner shall submit to the department for approval, a change of ownership (CHOW) application packet that includes:

1. a completed CHOW application and the appropriate non-refundable licensing fee as established by statute. The CHOW application shall contain the name and address of the person, partnership, corporation, unincorporated association, or other legal entity that is the applicant, and the name and address of the registered agent;

2. if applicable, a copy of the NSA's articles of incorporation or organization, a copy of its current bylaws, and the names and addresses of its officers, administrator/director, and shareholders owning more than 5 percent of the corporation's stock;

3. the legal CHOW document;

4. a copy of the organizational chart of the NSA, including the names and addresses of the person or persons under whose management or supervision the NSA will be operated;

5. a statement detailing the experience and qualifications of the applicant to operate an NSA;

6. a statement of financial solvency, comprised of the following:

a. a line of credit issued from a federally insured, licensed lending institution in the amount of at least \$25,000 that is:

i. current and in effect at the time of submission of the application for licensure; and

ii. issued to and in the name of the applicant shown on the application for licensure;

b. general and professional liability insurance in an amount sufficient to provide coverage in accordance with the total amount recoverable for all malpractice claims as indicated in R.S. 40:1231.2, or current law; and

c. worker's compensation insurance that is in compliance with the Louisiana Workers' Compensation Law, R.S. 23:1020.1 et seq., or current law, with a minimum coverage in the amount of \$1,000,000 that is current and in effect at the time of submission of the license application;

7. proof that the LDH, HSS is specifically identified as the certificate holder on any policies and any certificates of insurance issued as proof of insurance by the insurer or producer (agent);

8. a copy of a statewide criminal background check, including sex offender registry status, on all applicant(s), owner(s) with 5 percent or more ownership interest, and administrator/director, and for any state lived in within the last five years;

9. a completed disclosure of ownership and control information form; and

10. any other relevant documentation or information required by the department for licensure.

C. If the CHOW results in a change of geographic address, a survey may be required prior to issuance of the new license.

D. A CHOW of the NSA shall not be submitted at time of the biennial renewal of the NSA's license.

E. An NSA may not undergo a CHOW if any of the following conditions exist. The NSA:

1. licensure is provisional, under revocation or denial of renewal;

2. is in a settlement agreement with the department; or

3. has ceased to operate and does not meet operational requirements to hold a license as defined by §7739 and in accordance with §7723 of this Chapter.

F. The department may deny approval of the CHOW for any of the reasons a license may be revoked or denied renewal pursuant to these licensing provisions.

G. Once all application requirements have been completed and approved by the department, a new license shall be issued to the new owner. The transferor shall remain responsible for the operation of the agency until such time as a license is issued to the transferee.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 49:1733 (October 2023).

§7717. Renewal of License

A. The NSA shall submit a completed license renewal application packet to the department at least 30 days prior to the expiration of the current license. The completed license renewal application packet shall include:

1. a completed NSA license renewal application and the appropriate non-refundable license renewal/delinquent fee as established by statute. The license application shall contain the name and address of the person, partnership, corporation, unincorporated association, or other legal entity that is the applicant(s), and the name and address of the registered agent;

2. a statement of financial solvency, comprised of the following:

a. a line of credit issued from a federally insured, licensed lending institution in the amount of at least \$25,000 that is:

i. current and in effect at the time of submission of the application for licensure; and

ii. issued to and in the name of the applicant shown on the application for licensure;

b. general and professional liability insurance in an amount sufficient to provide coverage in accordance with the total amount recoverable for all malpractice claims as indicated in R.S. 40:1231.2, or current law; and

c. worker's compensation insurance that is in compliance with the Louisiana Workers' Compensation Law, R.S. 23:1020.1 et seq., or current law, with a minimum coverage in the amount of \$1,000,000 that is current and in effect at the time of submission of the license application;

3. proof that the LDH, HSS is specifically identified as the certificate holder on any policies and any certificates

of insurance issued as proof of insurance by the insurer or producer (agent); and

4. any other relevant documentation or information required by the department for licensure.

B. The department may perform a survey and/or complaint investigation upon biennial renewal of a license.

C. Failure to submit a completed license renewal application packet prior to the expiration of the current license shall result in the voluntary non-renewal of the NSA license.

1. Upon expiration of the current license, the NSA provider shall cease providing services in accordance with this rule, or current law, and shall meet the requirements of §7725 of this Chapter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 49:1734 (October 2023).

§7719. Denial of Initial Licensure, Revocation of License, Denial of License Renewal, Operation without License and Penalty

A. Denial of an Initial License

1. The department may, after appropriate notice and hearing, deny issuance of an NSA license if the licensee or applicant fails to comply with any licensing laws or regulations, or any other required statutes or regulations that present a potential threat to the health, safety, or welfare of an individual or individuals receiving services.

2. The department may deny an initial license for any of the reasons stated in Subsection C of this Section for which a license may be revoked or a license renewal denied.

B. Voluntary Non-Renewal of a License. If an NSA fails to timely renew its license, the license expires on its face and is considered voluntarily surrendered. There are no appeal rights for such surrender or non-renewal of the license, as this is a voluntary action on the part of the NSA.

C. Revocation of License or Denial of License Renewal. A NSA license may be revoked or denied renewal for any of the reasons the following:

1. failure to comply with the statutory requirements and minimum standards set forth by regulations as promulgated by the department;

2. insufficient financial or other resources to operate the NSA in accordance with the requirements of these regulations and the minimum standards, rules, and regulations promulgated herein;

3. failure to establish appropriate personnel policies and procedures for selecting nurses and certified nurse aides for employment, assignment, or referral;

4. failure to perform criminal history checks as required by R.S. 40:1203.1 et seq., or current law;

5. failure to report hours worked by certified nurse aides to the certified nurse aide registry;

6. failure to comply with the terms and provisions of a settlement agreement with LDH or education letter;

7. knowingly making a false statement in any of the following areas, including but not limited to:

a. application for initial license or renewal of license;

- b. data forms;
- c. employee records;
- d. matters under investigation by the department or the Office of the Attorney General, or any law enforcement agency;

8. knowingly making a false statement or providing false, forged, or altered information or documentation to LDH employees or to law enforcement agencies;

9. the use of false, fraudulent, or misleading advertising;

10. fraudulent operation of an NSA by the owner(s), officer(s), director(s), officer(s), board member(s), administrator/director, or other key personnel as defined by §7713 of this Chapter;

11. the applicant(s), owner(s), officer(s), member(s), administrator/director, or person(s) has been convicted of, or has entered a plea of guilty or nolo contendere (no contest) to or has pled guilty or nolo contendere to a felony, or has been convicted of a felony, as documented by a certified copy of the record of the court;

a. For purposes of these provisions, conviction of a felony involves any felony conviction relating to:

- i. the violence, abuse, or negligence of a person;
- ii. the misappropriation of property belonging to another person;
- iii. cruelty, exploitation, or the sexual battery of the infirmed;
- iv. a drug offense;
- v. crimes of a sexual nature;
- vi. a firearm or deadly weapon;
- vii. Medicare or Medicaid fraud; or
- viii. fraud or misappropriation of federal or state funds;

12. failure to comply with all reporting requirements in a timely manner, as required by the department;

13. failure to allow, or refusal to allow, the department to conduct a survey or complaint investigation or to interview NSA staff or other individuals as necessary or required to conduct the survey or complaint investigation;

14. interference with the survey or complaint investigation process, including but not limited to, harassment, intimidation, or threats against the survey staff;

15. failure to allow or refusal to allow access to the NSA facility employee or contract staff's records by authorized department personnel;

16. failure to timely pay outstanding fees, fines, sanctions, or other debts owed to the department; or

17. failure to maintain current, and in effect, required insurance.

D. When a licensed NSA receives a notice of license revocation, the NSA shall notify in writing within 24 hours, all agencies or healthcare facilities for which the NSA provides employees or contracted staff, of the license revocation or suspension action. The notice shall:

- 1. include the following:
 - a. the action taken by the department; and
 - b. whether the NSA is appealing the action; and
- 2. be posted in a conspicuous place inside the licensed premises where an individual or individuals can access the notice.

E. In the event an NSA's license is revoked, renewal is denied, or the license is surrendered in lieu of an adverse

action, any owner(s), board member(s), administrator/director, and any other person named on the license application of such NSA is prohibited from owning, managing, supervising, directing, or operating another NSA agency for a period of two years from the date of the final disposition of the revocation, denial action, or surrender.

F. Operation without License and Penalty

1. An NSA shall not operate without a license issued by the department.

a. Any such person, partnership, corporation, unincorporated associations, or other legal entity operating such an agency without a license shall be guilty of a misdemeanor and upon conviction shall be fined no less than \$250 for each day of operation without a license, up to a maximum of \$1,000. Each day of violation shall constitute a separate offense.

b. It shall be the responsibility of the department to inform the appropriate district attorney of the alleged violation to ensure enforcement.

2. If a person, partnership, corporation, unincorporated associations, or other legal entity is operating a NSA without a license issued by the department, the department shall have the authority to issue an immediate cease and desist order to that person, partnership, corporation, unincorporated associations, or other legal entity.

a. Any such NSA receiving such a cease and desist order from the department shall immediately cease operations until such time as that NSA is issued a license by the department.

3. The department shall seek an injunction in the Nineteenth Judicial District Court against any person, partnership, corporation, unincorporated associations, or other legal entity operating an agency that receives a cease and desist order from the department and who does not cease operations immediately.

a. Any such person, partnership, corporation, unincorporated association, or other legal entity operating an agency against whom an injunction is granted shall be liable to the department for attorney fees, costs, and damages.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 49:1734 (October 2023).

§7721. Notice and Appeal of Initial License Denial, License Revocation and Denial of License Renewal

A. Notice of an initial license denial, license revocation, or denial of license renewal shall be given to the provider in writing.

B. The NSA has a right to an administrative reconsideration of the initial license denial, license revocation, or denial of license renewal. There is no right to an administrative reconsideration of a voluntary non-renewal or surrender of a license by the NSA.

1. The NSA shall request the administrative reconsideration within 15 calendar days of the receipt of the notice of the initial license denial, license revocation, or denial of license renewal. The request for administrative reconsideration shall be in writing and received by the department within 15 days from the NSA's receipt of the notice letter from the department.

2. The request for administrative reconsideration shall include any documentation that demonstrates that the determination was made in error.

3. If a timely request for an administrative reconsideration is received by HSS, an administrative reconsideration shall be scheduled and the NSA will receive written notification of the date of the administrative reconsideration.

4. The NSA shall have the right to appear in person at the administrative reconsideration and may be represented by counsel.

5. Correction of a deficiency or noncompliance which is the basis for the initial license denial, revocation or denial of license renewal shall not be a basis for administrative reconsideration.

6. The administrative reconsideration process is not in lieu of the administrative appeals process.

7. The NSA will be notified in writing of the results of the administrative reconsideration.

C. The NSA has a right to an administrative appeal of the initial license denial, license revocation, or denial of license renewal. There is no right to an administrative appeal of a voluntary non-renewal or surrender of a license by the NSA.

1. The NSA shall request the administrative appeal within 30 days of the receipt of the results of the administrative reconsideration.

a. The NSA may forego its rights to an administrative reconsideration, and if so, shall request the administrative appeal within 30 calendar days of the receipt of the written notice of the initial license denial, revocation, or denial of license renewal.

2. The request for administrative appeal shall be in writing and shall be submitted to the DAL, or its successor. The request shall include any documentation that demonstrates that the determination was made in error and shall include the basis and specific reasons for the appeal.

3. If a timely request for an administrative appeal is received by the DAL, or its successor, the administrative appeal of the license revocation or denial of license renewal shall be suspensive, and the NSA shall be allowed to continue to operate and provide services until such time as the department issues a final administrative decision.

a. If the secretary of the department determines that the violations of the NSA pose an imminent or immediate threat to the health, welfare, or safety of an individual or individuals receiving services, the imposition of the license revocation or denial of license renewal may be immediate and may be enforced during the pendency of the administrative appeal. If the secretary of the department makes such a determination, the provider will be notified in writing.

4. Correction of a violation or a deficiency or noncompliance which is the basis for the initial license denial, license revocation or denial of license renewal shall not be a basis for an administrative appeal.

D. If an existing licensed NSA has been issued a notice of license revocation, and the NSA's license is due for biennial renewal, the department shall deny the license renewal application. The denial of the license renewal application does not affect, in any manner, the license revocation.

E. If a timely administrative appeal has been filed by the NSA on an initial license denial, denial of license renewal or license revocation, the DAL, or its successor, shall conduct the hearing in accordance with the Administrative Procedure Act.

1. If the final agency decision is to reverse the initial license denial, denial of license renewal or license revocation, the NSA's license will be re-instated or granted upon the payment of any non-refundable licensing fees, outstanding sanctions, or other fees due to the department.

2. If the final agency decision is to affirm the denial of license renewal or license revocation, the NSA shall give written notice to all licensed healthcare facilities for which the NSA is providing staff.

a. Within 10 calendar days of the final agency decision, the NSA shall notify HSS, in writing, of the secure and confidential location where the employee or contracted staff's records will be stored and the name and contact information of the person(s) responsible for the employee or contracted staff's records.

F. There is no right to an administrative reconsideration or an administrative appeal of the issuance of a provisional initial license to a new NSA, or the issuance of a provisional license to an existing NSA. A NSA who has been issued a provisional license is licensed and operational for the term of the provisional license. The issuance of a provisional license is not considered to be a denial of initial licensure, denial of license renewal, or license revocation.

1. A follow-up survey may be conducted prior to the expiration of a provisional initial license issued to a new NSA or the expiration of a provisional license issued to an existing NSA.

2. A new NSA that is issued a provisional initial license or an existing NSA that is issued a provisional license shall be required to correct all deficiencies or noncompliance(s) at the time the follow-up survey is conducted.

3. If all deficiencies or noncompliance(s) have not been corrected at the time of the follow-up survey, or if new deficiencies or noncompliance(s) that are a threat to the health, safety, or welfare of an individual or individuals receiving services are cited on the follow-up survey, the provisional initial license or provisional license shall expire on its face and the NSA shall be required to begin the initial licensing process again by submitting a new initial license application packet and non-refundable fee.

4. The department shall issue written notice to the NSA of the results of the follow-up survey.

G. A NSA with a provisional initial license or an existing NSA with a provisional license that expires due to deficiencies or noncompliance(s) cited at the follow-up survey, shall have the right to an administrative reconsideration and the right to an administrative appeal, solely as to the validity of the deficiencies or noncompliance(s).

1. The correction of a deficiency or noncompliance after the follow-up survey shall not be the basis for the administrative reconsideration or for the administrative appeal.

2. The administrative reconsideration and the administrative appeal are limited to whether the deficiencies

or noncompliance(s) were properly cited at the follow-up survey.

3. The NSA shall request the administrative reconsideration in writing, which shall be received by the HSS within five calendar days of receipt of the written notice of the results of the follow-up survey from the department. The request for an administrative reconsideration must identify each disputed deficiencies or noncompliance(s) and the reason for the dispute and include any documentation that demonstrates that the determination was made in error.

4. The NSA shall request the administrative appeal within 15 calendar days of receipt of the written notice of the results of the follow-up survey from the department. The request for administrative appeal shall be in writing and shall be submitted to the DAL, or its successor. The request for an administrative appeal must identify each disputed deficiencies or noncompliance(s) and the reason for the dispute and include any documentation that demonstrates that the determination was made in error.

5. A NSA with a provisional initial license or an existing NSA with a provisional license that expires under the provisions of this Chapter shall cease providing services and provide written notice to all licensed healthcare facilities for which the NSA is providing staff unless the DAL, or its successor, issues a stay of the expiration.

a. The stay may be granted by the DAL, or its successor, upon application by the NSA at the time the administrative appeal is filed and only after a contradictory hearing and only upon a showing that there is no potential harm to an individual or individuals receiving services being served by the healthcare provider.

6. If a timely administrative appeal has been filed by a NSA with a provisional initial license that has expired, or by an existing NSA whose provisional license has expired under the provisions of this Chapter, the Division of Administrative Law, or its successor, shall conduct the hearing in accordance with the Administrative Procedure Act.

a. If the final agency decision is to remove all deficiencies or noncompliance(s), the NSA's license will be re-instated upon the payment of any outstanding sanctions and licensing or other fees due to the department.

b. If the final agency decision is to uphold the deficiencies or noncompliance(s) thereby affirming the expiration of the provisional license, the NSA shall give written notice to all licensed healthcare facilities for which the NSA is providing staff.

i. Within 10 calendar days of the final agency decision, the provider shall notify HSS in writing of the secure and confidential location where the employee or contracted staff records will be stored.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 49:1735 (October 2023).

§7723. Cessation of Business

A. A license shall be immediately null and void if a NSA becomes non-operational.

B. A cessation of business is deemed to be effective the date on which the NSA ceased offering or providing NSA

services and/or is considered non-operational in accordance with §7705.C.2.

C. Upon the cessation of business, the NSA shall immediately return the original license to the department, and shall meet the requirements of §7753.C.

D. Cessation of business is deemed to be a voluntary action on the part of the NSA. The NSA does not have a right to appeal a cessation of business.

E. If a NSA fails to follow these procedures, the owner(s), administrator/director, and officer(s) may be prohibited from opening, managing, directing, operating, or owning a NSA for a period of two years.

F. Once any NSA has ceased doing business, the NSA shall not provide services until the NSA has obtained a new initial NSA license.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 49:1737 (October 2023).

§7725. Survey Activities

A. The department, or its designee, may conduct periodic licensing surveys, complaint surveys, and other surveys as deemed necessary to ensure compliance with all laws, rules and regulations governing NSA and to ensure the health, safety and welfare of an individual or individuals receiving services from employees or contracted staff of the NSA. These surveys shall be unannounced.

1. The department, or its designee, upon receiving a complaint from any interested person regarding allegations that a NSA is operating without a valid license issued by the department, may investigate any entity, person or persons.

B. Complaint investigations shall be conducted in accordance with R.S. 40:2009.13 et seq., or current law.

C. The department shall require an acceptable plan of correction from a NSA for any survey or complaint investigation where deficiencies or noncompliance(s) have been cited, regardless of whether the department takes other action against the healthcare facility for the deficiencies or noncompliance(s) cited in the survey or complaint investigation. The acceptable plan of correction shall be submitted within the prescribed timeframe to the department for approval.

D. A follow-up survey may be conducted for any survey or complaint investigation where deficiencies or noncompliance(s) have been cited to ensure correction of the deficient or noncompliant practice(s).

E. The department may issue sanctions, allowed under current state law or regulation, for deficiencies or noncompliance(s) and violations of law, rules, and regulations. Sanctions include, but are not limited to:

1. civil fines;
2. directed plans of correction;
3. license revocation; and/or
4. denial of license renewal.

F. LDH surveyors and staff shall be:

1. given access to all areas of the NSA agency, to all relevant administrative files during any survey as necessary or required to conduct the survey and/or complaint investigation, and all files relevant to monitor the usage of the NSA services to determine their impact. If the department conducts a survey as an administrative survey,

the NSA shall provide all requested documentation and records to the department in electronic format by the end of the next business day from the request; and

2. allowed to interview any NSA employees or contracted staff or other persons as necessary or required to conduct the survey.

G. The NSA shall cooperate in any survey or complaint investigation conducted by the department. Failure to cooperate or timely produce any documentation for inspection or survey may result in action up to and including license revocation.

H. The department shall assess the NSA a survey or complaint investigation fee, not to exceed \$1,000 for any complaint survey or complaint investigation conducted by the department at which deficiencies are substantiated.

1. This survey or complaint investigation fee shall be imposed by the department only after the NSA has completed the administrative process which has upheld the deficiencies or noncompliance or the time for filing any administrative appeal has expired.

2. The survey or complaint investigation fee shall not exceed the cost of performing the survey.

3. This fee shall be in addition to any other sanctions.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 49:1737 (October 2023).

§7727. Statement of Deficiencies/Noncompliance(s)

A. The following statements of deficiencies or noncompliance(s) issued by the department to the NSA shall be posted in a conspicuous place on the licensed premises:

1. the most recent biennial survey statement of deficiencies or noncompliance(s); and

2. any complaint survey statement of deficiencies or noncompliance(s).

B. Any statement of deficiencies or noncompliance(s) issued by the department to a NSA shall be available for disclosure to the public 30 days after the NSA submits an acceptable plan of correction to the deficiencies or noncompliance or 90 days after the statement of deficiencies or noncompliance is issued to the NSA, whichever occurs first.

C. Unless otherwise provided in statute or in these licensing provisions, a NSA shall have the right to an administrative reconsideration of any deficiencies or noncompliance(s) cited as a result of a survey or complaint investigation.

1. Correction of the deficiencies or noncompliance(s) shall not be the basis for the reconsideration.

2. The administrative reconsideration of the deficiencies or noncompliance(s) shall be requested in writing within 10 calendar days of receipt of the statement of deficiencies or noncompliance(s), unless otherwise provided in these standards.

3. The request for administrative reconsideration of the deficiencies or noncompliance(s) shall be made to the department's HSS and will be considered timely if received by HSS within 10 calendar days of the NSA's receipt of the statement of deficiencies or noncompliance(s).

4. If a timely request for an administrative reconsideration is received, the department shall schedule and conduct the administrative reconsideration.

5. The NSA shall be notified in writing of the results of the administrative reconsideration.

6. Except as provided for complaint surveys pursuant to R.S. 40:2009.13 et seq., or current law, and as provided in these licensing provisions for initial license denials, revocations and denial of license renewals, the decision of the administrative reconsideration team shall be the final administrative decision regarding the deficiencies.

7. The request for an administrative reconsideration of any deficiencies or noncompliance(s) cited as a result of a survey or complaint investigation does not delay submission of the required plan of correction within the prescribed timeframe.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 49:1738 (October 2023).

Subchapter B. Administration and Organization

§7735. Governing Body

A. An NSA shall have an identifiable governing body with responsibility for and authority over the policies and activities of the agency.

1. An NSA shall have documents identifying all members and officers of the governing body, their addresses, and their terms of membership.

2. The governing body shall hold formal meetings at least twice a year.

3. There shall be written minutes of all formal meetings of the governing body and by-laws specifying frequency of meetings and quorum requirements.

B. The governing body of an NSA shall:

1. ensure the NSA's continual compliance and conformity with all relevant federal, state, local, and municipal laws and regulations;

2. ensure that the NSA is adequately funded and fiscally sound;

3. review and approve the NSA's annual budget;

4. designate a person to act as administrator/director and delegate sufficient authority to this person to manage the NSA agency;

5. formulate and annually review, in consultation with the administrator/director, written policies concerning the NSA's philosophy, goals, current services, personnel practices, job descriptions and fiscal management;

6. annually evaluate the administrator/director's performance;

7. have the authority to dismiss the administrator/director;

8. meet with designated representatives of the department whenever required to do so;

9. ensure federal and statewide criminal background checks on all unlicensed persons providing direct care and services to clients in accordance with R.S. 40:1203.1 et seq., or other applicable current state law upon hire;

10. ensure that the NSA does not hire unlicensed persons who have a conviction that bars employment in

accordance with R.S. 40:1203.3 or other applicable current state law;

a. the NSA shall have documentation on the final disposition of all charges that bars employment pursuant to applicable state law; and

11. ensure that certified nurse aides (CNAs) comply with R.S. 40:1203.2 or other applicable current state law.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 49:1738 (October 2023).

§7737. Policy and Procedures

A. The NSA shall develop, implement, and comply with NSA-specific written policies and procedures, approved by the owner(s) or governing body, related to compliance with this Chapter, including but not limited to the following policies and procedures:

1. confidentiality and security of files;
2. publicity and marketing;
3. prohibition of illegal or coercive inducement, solicitation and/or kickbacks;
4. personnel policies;
5. employee or contracted staff grievance policy;
6. incidents and accidents, including medical emergencies;
7. records maintenance and retention;
8. compliance with memoranda issued by the department and applicable to NSAs;
9. a plan for recruitment, screening, personal interview, reference check, orientation, ongoing training, development, supervision, and at least annual performance evaluation of staff members;

10. written job descriptions for each employee or contracted staff position;

11. abuse reporting procedures that require all employees or contracted staff, to report any and all incidents of abuse or mistreatment of an individual or individuals receiving services from employees or contracted staff referred to a licensed healthcare facility by the NSA, whether that abuse or mistreatment or is done by another staff member, a family member, patient(s), client(s), or other person(s) when the staff person witnesses or becomes aware of such incident. Abuse reporting procedures shall be in accordance with R.S. 40:2199.11 et seq., or current applicable law;

12. a written policy to prevent discrimination in accordance with R.S. 40:2199.11 et seq., or current law;

13. a written policy to ensure that there is a final disposition of all charges that appear on the employee or contracted staff person's criminal background check, including the sex offender registry in accordance current law; and

14. a written policy to address prohibited use of social media. The policy shall ensure that all employees or contracted staff, receive training relative to the restricted use of social media and include, at a minimum ensuring preservation of dignity, respect, and confidentiality of an individual or individuals' receipt of healthcare services, and protection of an individual or individuals receiving healthcare services' privacy and personal and property rights.

B. An NSA shall comply with all federal, state, and local laws, rules, and regulations in the development and implementation of its policies and procedures.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 49:1739 (October 2023).

§7739. Business Location

A. The NSA shall operate independently from any other business or entity, and shall not operate office space with any other business or entity.

B. The business location shall:

1. have a telephone number which is available and accessible 24 hours a day, 7 days a week, including holidays;
2. report to the HSS within five business days, any planned deviation of the NSA's days and hours of operation;
3. report to the HSS within two business days, any unplanned deviation of NSA's days and hours of operation;
4. have internet access and a working electronic mail address;

a. the electronic mail address shall be provided to the department as well as any changes to the electronic mail address within five working days to ensure that the department has current contact information; and

b. the electronic mail address shall be monitored by the NSA on an ongoing basis to receive communication from the department; and

5. have space for storage of personnel records either electronically or in paper form or both in an area that is secure, safe from hazards, and does not breach confidentiality.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 49:1739 (October 2023).

§7741. Branch Offices and Satellites of Nurse Staffing Agency Providers

A. Nurse staffing agency providers with branch offices or satellite locations shall meet the following:

1. No branch office or satellite location may be opened without prior written approval from HSS. In order for a branch office or satellite location to be approved, the parent agency shall have maintained a full licensure for the previous 12-month period.

2. The department may consider the following in making a determination whether to approve a branch office or a satellite location:

a. compliance history of the NSA to include the areas of deficiencies or noncompliance(s) cited within the last 12 months;

b. the nature and severity of any substantiated complaints within the last 12 months;

c. if the existing NSA has more than six validated complaints in one biennial licensed period;

d. if the parent agency currently has a provisional license;

e. if the parent agency currently is in a settlement agreement with the department;

f. if the parent agency is currently under license revocation or denial of license renewal;

g. if the parent agency is currently undergoing a change of ownership; and

h. if any adverse action has been taken against the license of other agencies operated by the owner of the parent agency within the previous two-year period.

3. The branch office or satellite location shall be held out to the public as a branch office or satellite of the parent agency so that the public will be aware of the identity of the agency operating the branch office or satellite.

a. Reference to the name of the parent agency shall be contained in any written documents, signs, or other promotional materials relating to the branch office or satellite.

4. Personnel files shall be readily accessible at the branch office or satellite location.

5. A branch office or a satellite location is subject to survey, including complaint surveys, by the department at any time to determine compliance with minimum licensing standards.

6. A branch office or a satellite location shall:

a. post and maintain regular office hours in accordance with §7739.B; and

b. staff the branch office or satellite location with at least one employee or contracted staff, on duty at the business location or available by telecommunication during the days and hours of operation as stated on the licensing application.

7. Each branch office or satellite location shall:

a. fall under the license of the parent agency; and
b. be assessed the required fee, assessed at the time the license application is made and once every two years thereafter for renewal of the branch office or satellite license. This fee is non-refundable and is in addition to any other fees that may be assessed in accordance with applicable laws, rules, regulations and standards.

8. Existing branch office or satellite location approvals will be renewed at the time of the parent agency's license renewal, if the parent agency meets the requirements for licensure.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 49:1739 (October 2023).

Subchapter C. Provider Responsibilities

§7751. Core Staffing Requirements

A. Each NSA shall ensure that its employees or contracted staff meet the minimum licensing, training, and orientation standards for which those employees or contracted staff are licensed or certified.

B. Each NSA shall have a nurse serving as a manager or supervisor of all nurses and certified nurse aides.

C. The NSA shall not employ, assign, or refer for use in a healthcare facility in Louisiana, a nurse or CNA unless the nurse or CNA is certified or licensed in accordance with the applicable provision of state and federal laws or regulations, and meets the minimum mandatory qualifications and requirements for CNAs. Each nurse and CNA shall comply with all pertinent regulations of the department relating to the health and other qualifications of employees or contracted staff employed in healthcare facilities.

D. Administrator/Director Responsibilities. The administrator/director shall:

1. be a full time employee of the NSA provider and shall not be a contract employee;

2. be available in person or by telecommunication at all times for all aspects of agency operation or designate in writing an individual to assume the authority and control of the agency if the administrator/director is temporarily unavailable;

3. be responsible for the day-to-day management and supervision of the operations of the agency;

4. be responsible for compliance with all regulations, laws, policies, and procedures applicable to NSAs;

5. employ qualified employees or contracted staff and ensure adequate staff education;

6. ensure the accuracy of public information and materials;

7. act as liaison between employees or contracted staff, and the governing body;

8. implement an ongoing, accurate, and effective budgeting and accounting system;

9. ensure that all employees or contracted staff receive proper orientation and training on policies and procedures, as required by law or as necessary to fulfill each employee or contracted staff person's responsibilities; and

10. not serve as administrator for more than one licensed NSA.

E. Professional Staff

1. Professional staff employed or contracted by the NSA shall hold a current, valid professional license issued by the appropriate licensing board.

2. The NSA shall maintain proof of annual verification of current, valid professional licensure of all licensed professional staff.

3. All professional services furnished or provided shall be furnished or provided in accordance with professional standards of practice, according to the scope of practice requirements for each licensed discipline.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 49:1740 (October 2023).

§7753. Record Keeping

A. Administrative Records. The NSA shall have an administrative record that includes:

1. a list of members and officers of the governing body, along with their addresses and terms of membership;

2. a copy of its articles of incorporation or organization, by-laws, and operating agreements, or partnership documents, if applicable;

3. a copy of the current NSA license issued by HSS;

4. the written policies and procedures approved annually by the owner/governing body that address the requirements listed in Subchapter B of this Chapter;

5. the minutes of formal governing body meetings;

6. the organizational chart of the NSA;

7. all leases, contracts, and purchase of service agreements to which the NSA is a party, which includes all appropriate credentials;

8. insurance policies;

9. annual budgets and audit reports; and
 10. copies of incident/accident reports.
- B. Personnel Records. An NSA shall maintain a personnel record for each employee or contracted staff. At a minimum, this file shall contain the following:
1. the application for employment, including the resume of education, training, and experience, if applicable;
 2. a criminal history check, prior to an offer of direct or contract staff employment or contract, in accordance with federal and state law;
 3. evidence of current applicable professional or paraprofessional credentials/certifications/licensure according to state law, rule, or regulation;
 4. evidence of review of adverse action reports on the Louisiana certified nurse aide registry, upon hire and annually thereafter;
 5. documentation including, but not limited to, any healthcare screening or immunizations that are required by the state, federally, or the client;
 6. documentation of employees or contracted staff's hire and termination dates, and the number of hours worked per month;
 7. documentation of orientation and annual training of staff, as required by the written contract between the NSA and the healthcare facility;
 8. documentation of an employee or contracted staff person's name and state issued identification;
 9. documentation of reference checks; and
 10. annual performance evaluations.
- C. Maintenance and Storage of Records
1. All records shall be maintained in an accessible, standardized order and format and shall be retained and disposed of in accordance with state laws. An NSA shall have sufficient space, facilities, and supplies for providing effective storage of records.
 2. An NSA which is closing shall submit to the department for approval, 30 days prior to closure, a written plan for the disposition of employee or contracted staff records. The plan shall include:
 - a. the effective date of the closure;
 - b. provisions that comply with federal and state laws on storage, maintenance, access, and confidentiality of the closed NSA's employees or contracted staff's related records;
 - c. the name and contact information for the appointed custodian(s) who shall provide the following:
 - i. access to records and copies of personnel records, upon presentation of proper authorization(s); and
 - ii. physical and environmental security that protects the records against fire, water, intrusion, unauthorized access, loss, and destruction; and
 - d. to whom records may be released. Release shall be made in accordance with any and all federal and state laws.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 49:1740 (October 2023).

Stephen R. Russo, JD
Secretary

2310#059

RULE

Department of Health Bureau of Health Services Financing

Outpatient Hospital Services
Public Non-State Small Rural Hospitals
(LAC 50:V.5311, 5511, 5911, and 6113)

The Department of Health, Bureau of Health Services Financing has amended LAC 50:V.5311, §5511, §5911 and §6113 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq. This Rule is hereby adopted on the day of promulgation.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part V. Hospital Services

Subpart 5. Outpatient Hospital Services

Chapter 53. Outpatient Surgery

Subchapter B. Reimbursement Methodology

§5311. Small Rural Hospitals

A. - C.2. ...

D. Public Non-State Small Rural Hospitals. Effective for dates of service on or after July 1, 2023, quarterly supplemental payments will be issued to qualifying small rural hospitals for outpatient hospital surgery services rendered during the quarter. Maximum aggregate payments to all qualifying hospitals in this group shall not exceed the available upper payment limit per state fiscal year.

1. Qualifying Criteria. In order to qualify, as of September 30, 2022, the small hospital must:

- a. be publicly (non-state) owned and operated;
- b. be located in Department of Health administrative region 3; and
- c. provide routine and emergency inpatient and outpatient obstetrical services with separately identified nursery department statistics reported on the cost report.

2. Effective for dates of service on or after July 1, 2023, quarterly supplemental payments will be issued to qualifying small rural public hospitals for outpatient hospital surgery services rendered during the quarter. Maximum aggregate payments to all qualifying hospitals in this group shall not exceed the available upper payment limit per state fiscal year.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 35:956 (May 2009), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:1251 (May 2012), LR 40:542 (March 2014), amended by the Department of Health, Bureau of Health Services Financing, LR 49:1741 (October 2023).

Chapter 55. Clinic Services

Subchapter B. Reimbursement Methodology

§5511. Small Rural Hospitals

A. - C.2. ...

D. Public Non-State Small Rural Hospitals. Effective for dates of service on or after July 1, 2023, quarterly supplemental payments will be issued to qualifying small

rural hospitals for outpatient hospital clinic services rendered during the quarter. Maximum aggregate payments to all qualifying hospitals in this group shall not exceed the available upper payment limit per state fiscal year.

1. Qualifying Criteria. In order to qualify, as of September 30, 2022, the small hospital must:

- a. be publicly (non-state) owned and operated;
- b. be located in Department of Health administrative region 3; and
- c. provide routine and emergency inpatient and outpatient obstetrical services with separately identified nursery department statistics reported on the cost report.

2. Effective for dates of service on or after July 1, 2023, quarterly supplemental payments will be issued to qualifying small rural public hospitals for outpatient hospital clinic services rendered during the quarter. Maximum aggregate payments to all qualifying hospitals in this group shall not exceed the available upper payment limit per state fiscal year.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 35:956 (May 2009), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:1251 (May 2012), LR 40:542 (March 2014), amended by the Department of Health, Bureau of Health Services Financing, LR 49:1741 (October 2023).

Chapter 59. Rehabilitation Services

Subchapter B. Reimbursement Methodology

§5911. Small Rural Hospitals

A. - C.2. ...

D. Public Non-State Small Rural Hospitals. Effective for dates of service on or after July 1, 2023, quarterly supplemental payments will be issued to qualifying small rural hospitals for outpatient hospital rehabilitation services rendered during the quarter. Maximum aggregate payments to all qualifying hospitals in this group shall not exceed the available upper payment limit per state fiscal year.

1. Qualifying Criteria. In order to qualify, as of September 30, 2022, the small hospital must:

- a. be publicly (non-state) owned and operated;
- b. be located in Department of Health administrative region 3; and
- c. provide routine and emergency inpatient and outpatient obstetrical services with separately identified nursery department statistics reported on the cost report.

2. Effective for dates of service on or after July 1, 2023, quarterly supplemental payments will be issued to qualifying small rural public hospitals for outpatient hospital rehabilitation services rendered during the quarter. Maximum aggregate payments to all qualifying hospitals in this group shall not exceed the available upper payment limit per state fiscal year.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 35:956 (May 2009), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:1251 (May 2012), LR 40:543 (March 2014), amended by the Department of Health, Bureau of Health Services Financing, LR 49:1742 (October 2023).

Chapter 61. Other Outpatient Hospital Services

Subchapter B. Reimbursement Methodology

§6113. Small Rural Hospitals

A. - C.2. ...

D. Public Non-State Small Rural Hospitals. Effective for dates of service on or after July 1, 2023, quarterly supplemental payments will be issued to qualifying small rural hospitals for outpatient hospital services other than clinical diagnostic laboratory, outpatient surgeries, rehabilitation, and outpatient facility fees clinic services rendered during the quarter. Maximum aggregate payments to all qualifying hospitals in this group shall not exceed the available upper payment limit per state fiscal year.

1. Qualifying Criteria. In order to qualify, as of September 30, 2022, the small hospital must:

- a. be publicly (non-state) owned and operated;
- b. be located in Department of Health administrative region 3; and
- c. provide routine and emergency inpatient and outpatient obstetrical services with separately identified nursery department statistics reported on the cost report.

2. Effective for dates of service on or after July 1, 2023, quarterly supplemental payments will be issued to qualifying small rural public hospitals for outpatient hospital services rendered during the quarter. Maximum aggregate payments to all qualifying hospitals in this group shall not exceed the available upper payment limit per state fiscal year.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 35:956 (May 2009), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:1251 (May 2012), LR 40:543 (March 2014), amended by the Department of Health, Bureau of Health Services Financing, LR 49:1742 (October 2023).

Implementation of the provisions of this Rule may be contingent upon the approval of the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS), if it is determined that submission to CMS for review and approval is required.

Stephen R. Russo, JD
Secretary

2310#060

RULE

Department of Health Bureau of Health Services Financing

Rural Health Clinics
Reimbursement Methodology
(LAC 50:XI.16705)

The Department of Health, Bureau of Health Services Financing has amended LAC 50:XI.16705 as authorized by R.S. 36:254 and Title XIX of the Social Security Act. This Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq. This Rule is hereby adopted on the day of promulgation.

Title 50
PUBLIC HEALTH—MEDICAL ASSISTANCE
Part XI. Clinic Services
Subpart 15. Rural Health Clinics
Chapter 167. Reimbursement Methodology
§16705. Hospital-Based Rural Health Clinics

A. - A.2. ...

3. The payment received under this methodology will be compared each year to the BIPA PPS rate to assure the clinic that their payment under this alternative payment methodology (APM) is at least equal to the BIPA PPS rate. If the payment calculation at 110 percent of allowable cost is less than the BIPA PPS payments, the clinic will be paid the difference.

B. Effective for dates of service on or after July 1, 2023, the reimbursement methodology for services rendered by a rural health clinic licensed as part of a small rural hospital and included as a hospital outpatient department on the hospital's fiscal year end cost report prior to July 1, 2023 shall be eligible for the APM at 110 percent of allowable costs as calculated through cost settlement. Reimbursement shall be as follows:

1. The reimbursement methodology will be in accordance with §16705.A.1-3 as indicated above.

2. Future qualifications for the 110 percent alternative payment methodology reimbursement shall be determined on an annual basis for hospital-based rural health clinics enrolling and licensing as hospital outpatient departments during the hospital's fiscal year end cost reporting periods subsequent to June 30, 2023. Payments shall begin effective for dates of service beginning on July 1 after qualification.

3. Hospital-based rural health clinics that terminate their licensing as hospital outpatient departments will no longer be eligible for the alternative payment methodology at 110 percent of allowable costs upon termination.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 35:957 (May 2009), amended by the Department of Health, Bureau of Health Services Financing, LR 49:1743 (October 2023).

Implementation of the provisions of this Rule may be contingent upon the approval of the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS), if it is determined that submission to CMS for review and approval is required.

Stephen R. Russo, JD
Secretary

2310#061

RULE
Department of Health
Bureau of Health Services Financing

Third Party Liability
Pay and Chase
(LAC 50:I.8301)

The Department of Health, Bureau of Health Services Financing has amended LAC 50:I.8301 in the Medical

Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act (the Act). This Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq. This Rule is hereby adopted on the day of promulgation.

Title 50
PUBLIC HEALTH—MEDICAL ASSISTANCE
Part I. Administration
Subpart 9. Recovery
Chapter 83. Third Party Liability
Subchapter A. Claims
§8301. Pay and Chase

A. ...

* * *

B. Medicaid claims for services covered under the State Plan will be cost avoided when there is probable third party liability unless the claim is for one of the following services:

1. primary preventive pediatric care diagnoses are confined to those listed under *Diagnosis Codes Related to Preventive Pediatric Care Services* at www.lamedicaid.com;

a. Individuals under age 21 qualify; and

b. Hospitals are not included and must continue to file claims with the health insurance carriers;

2. early and periodic screening, diagnosis and treatment (EPSDT) medical, vision, and hearing services;

3. EPSDT dental services;

4. EPSDT services to children with disabilities (formerly referred to as school-based health services) which result from screening and are rendered by school boards;

5. services which are a result of an EPSDT referral, indicated by entering "Y" in block 24H of the CMS-1500 claim form, sometimes called HCFA-1500, or "1" as a condition code on the UB-92 (form locators 24 through 30); and

6. services for Medicaid eligibles whose health insurance is provided by an absent parent who is under the jurisdiction of the state child support enforcement agency are subject to a "wait and see period" that was effective April 1, 2021.

a. *Wait and See*—payment of a claim only after documentation is attached to a hard copy claim and submitted to the state's fiscal intermediary demonstrating that 100 days have elapsed since the provider billed the responsible third party and remains to be paid.

C. In processing these claims, the Medicaid agency will pay the claim and seek reimbursement from liable third parties, utilizing the claims method of payment called "pay and chase".

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Family Security, LR 13:578 (October 1978), amended by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 17:781 (August 1991), amended by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 32:848 (May 2006), amended by the Department of Health, Bureau of Health Services Financing, LR 49:1743 (October 2023).

Implementation of the provisions of this Rule may be contingent upon the approval of the U.S. Department of Health and Human Services, Centers for Medicare and

Medicaid Services (CMS), if it is determined that submission to CMS for review and approval is required.

Stephen R. Russo, JD
Secretary

2310#062

RULE

Department of Health Office of Public Health

Health Professional Development Program (LAC 48:V.Chapter 133)

Under the authority of R.S. 40:4 and 40:5, and in accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the state health officer, acting through the Department of Health, Office of Public Health (LDH/OPH), has enacted new sections of Title 48 of the *Louisiana Administrative Code* to provide the LDH the authority and ability to effectively administer the Health Professional Development Program.

LDH finds it necessary to make additions to the *Louisiana Administrative Code* as a consequence of funding allocated thru Act No. 167 of the 2022 Regular Session of the Louisiana Legislature, which provided funding related to R.S. 40:1205.1 et seq., Health Professional Development Program. The following changes provide the LDH the authority and ability to effectively administer the Health Professional Development Program, which is vital to the health of Louisiana's citizens and visitors. This Rule is hereby adopted on the day of promulgation.

Title 48

Public Health—GENERAL

Part V. Preventive Health Services

Subpart 49. Community Based and Rural Health Services

Chapter 133. Funding Eligibility

§13305. Health Professional Development Program

A. The Louisiana Department of Health (LDH) has developed and shall administer a plan for recruitment and retention of primary health care practitioners to practice in health professional shortage areas or facilities. The plan will provide for identification of shortage areas, prioritize long-term and short-term goals and strategies, provide a special minority component, and provide for public input.

B. LDH shall implement the recruitment and retention plan, directly or through contract. Implementation may include advertising and promotion, professional recruitment services, travel, and all other necessary expenses.

C. Contingent upon available funding, LDH will establish a Physician Loan Repayment Program, pursuant to R.S. 40:1205.3. LDH may establish one or more application cycles during any state fiscal year. At the beginning of any application cycle, notice of application will be publicized through electronic methods (email, newsletter, or the LDH website: <https://wellaheadla.com>).

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1205.1 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health, Office of Public Health, LR 49:1744 (October 2023).

§13307. Louisiana Physician Loan Repayment Program; Criteria

A. Criteria for Applicants. To be eligible for the loan repayment program, an applicant shall:

1. be licensed and qualified as a doctor of allopathic/osteopathic medicine (MD/DO—to include those in the final year of their residency) to practice in Louisiana;
2. provide primary care services in a federally designated health professional shortage area (family practice, general practice, internal medicine, pediatrics, obstetrics/gynecology, psychiatry, emergency medicine);
3. be a United States citizen/national;
4. agree to serve a minimum of five years in a federally designated health professional shortage area (HPSA) appropriate for their discipline;
5. work full-time (40 hours/week), with a minimum of 32 hours per week providing clinical services in an outpatient/ambulatory care setting or providing comprehensive patient care;
6. not have an outstanding contractual obligation to provide a health professional service to the federal government (e.g. an active military obligation, National Health Services Corp (NHSC) Loan Repayment Program, NHSC Scholarship Program), or any other entity unless that service obligation will be completely satisfied before the contract has been signed;
7. not have breached a health professional service contract with the federal, state, or local government, or other entities;
8. not have defaulted on their educational loans at any time, unless corrective actions have been made and loans are now in good standing;
9. not have a lien levied against their property for a debt to the United States government;
10. not be arrears on child support payment.

B. Criteria for Practice Sites. To be an eligible practice site, the site must:

1. be located in Louisiana in a federally designated HPSA.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1205.1 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health, Office of Public Health, LR 49:1744 (October 2023).

§13309. Award Amounts

A. Award amounts are contingent upon available funding and the amount of qualifying student loan debt.

B. LDH will contract directly with the award recipient.

C. Award amount may be up to \$150,000 for a five-year contract (or the amount of the principal balance of the educational loan if less than the total eligible to receive).

D. Participants who complete their original five-year commitment in compliance, remain in an eligible site in a HPSA, and still have educational loans to repay, may be able to extend their commitment with a two-year renewal to receive up to \$15,000 annually.

E. Disbursement of funds will occur quarterly upon receipt of loan verification payment (LPV) for the funds paid the prior quarter.

F. If the contractor breaches their obligation, the contractor will be subject to pay an amount equal to the sum of the following:

1. the total amount paid by the LDH to, or on behalf of, the participant for loan repayment for any period of obligated service not served;

2. an amount equal to the number of months of obligated service not completed multiplied by \$7,500; and

3. interest on the above amounts at the judicial interest rate pursuant to R.S. 13:4202, from the date of breach.

NOTE: The minimum amount that LDH is entitled to recover will not be less than \$31,000.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1205.1 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health, Office of Public Health, LR 49:1744 (October 2023).

§13311. Application

A. Program guidance and required forms will be updated as necessary on an annual basis and posted on the LDH website. Applications and other required documents shall be submitted directly to the Louisiana Department of Health at the address or using the electronic upload method noted in the program guidance. All applications (hard copy or an online application) must include the following:

1. copy of executed employment contract for the length of years participating in this program or a letter verifying employment, if an employment contract is not available;

2. resume;

3. copy of current professional license;

4. documentation of the current principal balance of the applicant's certified educational debt, including name and account number for each loan;

5. signed release from liability form;

6. signed consent for release of information waiver of confidentiality form;

7. completed IRS Form W-9 Request for Taxpayer ID Number that matches applicant address;

8. completed Electronic Funds Transfer Form with voided blank check or direct deposit form from a financial institution. The bottom of this form should be completed by your financial institution. Please make sure the box on the middle left page is checked;

9. for public employee(s), a letter of agreement with the governmental agency and verification of employment will be accepted in lieu of an employment contract.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1205.1 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health, Office of Public Health, LR 49:1745 (October 2023).

§13313. Selection Criteria

A. Upon receipt of applications, program leadership will have five business days to make final selection. All who applied will be notified of acceptance or denial within five business days of final selection. Submitting an application does not guarantee selection. Support may be provided for up to two physicians per site per year. At the end of the application period, if there are remaining funds then additional physicians may be supported per site. In the event multiple candidates meet the qualification criteria, additional points will be provided if applicant:

1. completed the Rural Health Scholars Program (RHSP)—2 points;

2. is a Louisiana resident—2 points;

3. graduated from a Louisiana medical school—1 point;

4. graduated from a medical school affiliated with an HBCU—1 point;

5. practicing in a rural location—2 points.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1205.1 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health, Office of Public Health, LR 49:1745 (October 2023).

§13315. Rural Health Scholars Program

A. Contingent upon available funding, the Louisiana Department of Health may establish a Rural Health Scholars Program pursuant to R.S. 40:1205.3. The Rural Health Scholars Program encourages health professions students to practice in Louisiana's Health Professional Shortage Areas (HPSAs) by building partnerships between rural and underserved healthcare facilities and colleges and universities. The program will pay stipends to eligible and selected students and their eligible schools as set forth in this Section. LDH may establish one or more application cycles at any state fiscal year. At the beginning of any application cycle, notice of application cycle will be publicized through electronic methods (email, newsletter, or on the LDH website: <https://wellaheadla.com>).

B. Eligibility Criteria for Students. Students are eligible for the program if they are currently enrolled in one of the following healthcare profession programs:

1. MD/DO physicians (family or general practice, internal medicine, obstetrics/gynecology and pediatrics);

2. DDS/DMD (general and pediatric dentistry);

3. NP (nurse practitioner);

4. PA (physician assistant); or

5. RDH (registered dental hygienist).

C. Student service requirements are as follows:

1. must complete, during the term of the written agreement required by this Section, a 180-hour rotation in a rural healthcare facility that meets the eligible practice site criteria set forth in this Section;

2. must participate in an on-line seminar (assigned by LDH) that details health disparities, discusses health equity, and provide information on chronic disease prevention efforts in rural Louisiana;

3. must submit an experience essay detailing their experience in the healthcare facility; and

4. must participate in a pre and post survey following the completion of the program.

D. Criteria for Eligible Practice Sites. Eligible practice sites must:

1. be located in a federally designated HPSA;

2. accept reimbursement from Medicare, Medicaid, and the Children's Health Insurance Program (CHIP), utilize a sliding fee scale, and see all patients regardless of their ability to pay; and

3. must provide discounts for individuals with limited incomes (i.e. use a sliding fee scale).

E. Criteria for eligible universities/schools of higher education:

1. accredited medical program at an in-state university or school of higher education;

2. ability to provide healthcare facilities with preceptor roles, responsibilities, and mandatory qualifications;

3. ability to mentor/work directly with students;
4. ensure that students meet standards for immunization, CPR, liability insurance, background, drug testing, etc. prior to beginning their rotations;
5. facilitate open communication between the college/university and each healthcare facility; and
6. ensure the student's clinical rotation aligns with college/university goals.

F. Award Amounts. LDH shall enter into mandatory written agreements with the chosen healthcare facility, university/school of higher education, and student. Students who fulfill all requirements of this Section will receive a stipend not to exceed \$6,000 and an additional \$2,000 toward living expenses for a total of \$8,000 for the entirety of the agreement. The hosting healthcare facility will receive a maximum of \$5,000 per each student participant hosted. Each university/school of higher education will receive \$5,000 for program participation. Number of students selected and stipend amounts may vary depending on funding.

G. Student Application/Selection. All applications and scores will be compiled and presented to program leadership. Program leadership will have five business days to make a final selection. Applicants who apply will be notified of acceptance or denial within five business days of final selection. In the event of a tie, equal distribution of students from universities will be made.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1205.1 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health, Office of Public Health, LR 49:1745 (October 2023).

Steve Russo
Secretary

2310#035

RULE

Department of Natural Resources Office of Conservation

Inactive Well Assessments (LAC 43:XIX.137)

In accordance with the provisions of the Administrative Procedure Act (R.S. 49:950, et seq.) and Title 30 of the Louisiana Revised Statutes of 1950 (R.S. 30:4 et seq.), the Department of Natural Resources, Office of Conservation has amended LAC 43:XIX Subpart 1 (Statewide Order No. 29-B) Chapter 1 General Provisions to expand the applicability and amount of inactive well assessments. Benefits of these amendments include incentivizing operators to either return wells to active service or permanently abandon them which reduces the number of wells which could eventually become orphaned; increasing revenue for restoring existing orphaned sites and regulating oil and gas development to ensure protection of the environment and public safety. This Rule is hereby adopted on the day of promulgation.

Title 43

NATURAL RESOURCES

Part XIX. Office of Conservation—General Operations

Subpart 1. Statewide Order No. 29-B

Chapter 1. General Provisions

§137. Plugging and Abandonment

A. Deadlines for Abandonment

1. Inactive, Future Utility Wells. All inactive wells classified as having future utility shall be plugged within five years of the date of the well becoming inactive. Failure to accurately report wells on the inactive well report shall be subject to the provisions of R.S. 30:17.

a. For wells that have been inactive for a period of four years or more on the effective date of this rule, the well shall be plugged within one year of the effective date of this Rule.

b. If an operator chooses not to plug an inactive well in accordance with this Section for reasons of future utility, an annual assessment shall be assessed until the well is plugged in the amount specified by Table 1 hereof depending on the total depth of the well and length of inactivity according to the Office of Conservation records.

Table 1—Annual Well Assessment Amounts		
	Length of Inactivity (years)	
Total Depth (ft.)	5-10	10+
0-3,000	\$125	\$188
3,001-9,999	\$250	\$375
10,000+	\$500	\$750

c. For all inactive wells not already covered by financial security as required in §104, financial security shall be provided within one year of the promulgation of this Rule.

d. All inactive wells shall be subject to the above provisions until the well has reported production for three consecutive months.

2. Other Wells on or after Effective Date of Order

a. All such wells classified on the inactive well report by either the operator, the engineering enforcement section manager or the district manager as having no future utility shall be plugged within 90 days from the date of such classification.

b. All wells classified on the inactive well report as having no future utility shall be subject to an annual assessment specified by Table 1 hereof depending on the total depth of the well and the length of inactivity according to Office of Conservation records. Wells which have been inactive for more than 90 days but less than 10 years will be assessed using the amount for 5-10 years specified by Table 1.

c. For all inactive wells not already covered by financial security as required in §104, financial security shall be provided within one year of the promulgation of this Rule.

3. Reduction of Inactive Well Assessment Amounts Based on Plugging Activity

a. Operators that plug ten or more wells during the calendar year immediately preceding an inactive well assessment may apply for a reduction in the inactive well assessment based on Table 2 hereof for each well plugged and abandoned based on Office of Conservation records.

Table 2—Annual Well Assessment Reduction Amounts Based on Wells Plugged	
Total Depth (ft.)	Reduction Amount
0-3,000	\$375
3,001-9,999	\$750
10,000+	\$1500

4. Reporting

a. All wells wherein production operations or use as a service well have ceased on or after the effective date of this order shall continue to be reported on the Form DM-1-R or Form DT-1 with the appropriate notation that the well is off production or no longer in use as a service well along with the date of last production or date the service well ceased to be used; and, after six months, if such a well has not been restored to production or use as a service well, it shall thereafter be reported by the operator on the semiannual inactive well report, Form INACT WR-1 (1974) which report shall be filed with the Department of Conservation showing the status of such well as of May 1 and November 1 of each year (report to be filed no later than May 25 and November 25). Such wells shall continue to be reported on the Form DM1-R or Form DT-1 showing the date of last production or the date the well ceased to be used as a service well, together with a notation showing the well is carried on the Form INACT WR-1 (1974), Inactive Well Report, until the well is plugged and abandoned.

b. The inactive well report shall list the field, well name, well number and other pertinent data and provide an appropriate column to classify such well as having either future utility, or no future utility. If the well is classified as having future utility, operator shall specify such utility by completing the appropriate column on the form. Wells so classified shall be reviewed periodically by the district manager who, at his discretion, may require an operator to supply additional information to justify the classification.

c. Administrative Interpretation. For purposes of administering the heretofore mentioned paragraphs, it is understood that:

i. a wellbore which is completed in more than one common source of supply (multiple completions) shall not be considered as ceasing to produce and shall not be reported on the inactive well report as long as there is production from or operations in any completion in the wellbore;

ii. wells classified as having future utility may be off production or shut-in but are considered to have future utility for producing oil or gas, or for use as a service well.

B. - H. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Adopted by the Department of Conservation (August 1943), amended (March 1974), amended by

the Department of Natural Resources, Office of Conservation, LR 40:2597 (December 2014), LR 41:953 (May 2015), repromulgated LR 41:1120 (June 2015), amended LR 49:1746 (October 2023).

Monique M. Edwards
Commissioner

2310#012

RULE

**Department of Public Safety and Corrections
Corrections Services**

Inmate Mail and Publications
(LAC 22:I.313)

In accordance with the provisions of the Administrative Procedure Act (R.S. 49:950), the Department of Public Safety and Corrections, Corrections Services, has amended the contents of §313, Inmate Mail and Publications.

The Department of Public Safety and Corrections, Corrections Services, has amended language prohibiting reception or possession of children’s images by sex offender inmates if the sex offender inmate’s victim was a minor, permitting a warden to make exceptions on a case-by-case basis, as well as, minor technical revisions. This Rule is hereby adopted on the day of promulgation.

Title 22

**CORRECTIONS, CRIMINAL JUSTICE AND LAW
ENFORCEMENT**

Part I. Corrections

Chapter 3. Adult Services

Subchapter A. General

§313. Inmate Mail and Publications

A. Purpose. This department regulation governs inmate mail and publication privileges at all adult facilities.

B. Applicability: deputy secretary, undersecretary, chief of operations, regional wardens, and wardens. Each warden shall ensure appropriate unit written policies and procedures are in place to comply with this regulation and for conveying its content to all inmates and affected employees.

C. Notice. Staff at each reception and diagnostic center or unit handling initial reception and diagnostic functions shall inform each inmate in writing promptly after arrival of the department’s rules for handling of inmate mail, utilizing the notification of mail handling form. This form shall be filed in the inmate’s master record.

1. The current inmate population in DPS and C facilities is required to complete the notification of mail handling form upon the issuance of this revision to §313 of this Part.

D. Policy. Inmates may communicate with people or organizations subject to the limitations necessary to protect legitimate penological objectives (including but not limited to deterrence of crime, rehabilitation of inmates, maintenance of internal/external security of a facility or maintenance of an environment free of sexual harassment), to prevent the commission of a crime, and to protect the interests of crime victims.

E. Definitions

DPS and C Facility—includes, for the purpose of this regulation, state operated prison facilities, and state privately operated prison facilities.

E-mail—a document created or received on an electronic mail system, including any attachments, such as word processing and other electronic documents, which may be transmitted with the message. *E-mail* is correspondence to or from an inmate in an electronic format that is provided through the department's contractor for inmate services.

Farm Mail Correspondence—inmate to inmate mail when housed at the same facility.

Indigent Inmates—inmates who do not have sufficient funds in the appropriate account(s) at the time of their request for indigent services and/or supplies to cover fully the cost of the requested services or supplies.

Nudity—pictorial depiction of genitalia or female breasts (with the nipple or areola exposed).

Privileged Correspondence (includes mail to or from)—

- a. identifiable courts;
- b. identifiable prosecuting attorneys;
- c. identifiable probation and parole officers, parole board and pardon board;
- d. state and local executive officers;
- e. identifiable attorneys;
- f. secretary, deputy secretary, undersecretary, assistant secretary, chief of operations and other officials and administrators of grievance systems of the department;
- g. local, state or federal law enforcement agencies and officials.

Publication—book, booklet, pamphlet, or similar document, or a single issue of a magazine, periodical, newsletter, newspaper, magazine/newspaper clipping, article printed from the internet, plus other materials addressed to a specific inmate such as advertising brochures, flyers and catalogs.

Sexually Explicit Material—any book, pamphlet, magazine, or printed matter however reproduced, which contains any picture, photograph, drawing or similar visual representation or image of a person or portion of the human body which depicts nudity, sexual conduct, sadomasochistic abuse, bestiality and homosexuality. Explicit sexual material also includes materials containing detailed verbal descriptions or narrative accounts of sexually explicit conduct. A publication will not be prohibited solely because it contains pictorial nudity where such publication has a medical, educational or anthropological purpose.

F. Inmate Correspondence. Inmates may write and receive letters and e-mails subject to the following provisions.

1. Frequency. There shall be no limit placed on the number of letters or e-mails an inmate may write or receive at personal expense and no limit placed on the length, language or content except when there is reasonable belief that limitation is necessary to protect public safety or facility order, including restrictions relative to what may be reasonably stored in space provided and security. Inmates in segregation can write and receive letters on the same basis as inmates in general population.

2. Timely Handling. All mail, incoming and outgoing, shall be handled without unjustified delay. Letters should generally not be held more than 48 hours and packages shall

not be held more than 72 hours. This timeline does not prohibit the holding of mail for inmates who are temporarily absent from the facility and does not include weekends and holidays or emergency situations. When mail is received for an inmate who has been transferred to another facility or released, the facility where the mail is received should attempt to forward the mail to him. The collection and distribution of mail is never to be delegated to an inmate. Mail shall be given directly to the receiving inmate by an employee.

3. Correspondence. An inmate may write to anyone except:

a. a victim of any criminal offense for which the inmate has been convicted or for which disposition is pending, or an immediate family member of the victim, except in accordance with specific procedures established by department regulations or as established by the warden in conjunction with the Crime Victims Services Bureau;

b. any person under the age of 18 when the person's parent or guardian objects verbally or in writing to such correspondence;

c. any person whom the inmate is restrained from writing to by court order;

d. any person who has provided a verbal or written request to not receive correspondence from an inmate;

e. any other person, when prohibiting such correspondence generally is necessary to further the substantial interests of security, order or rehabilitation.

4. Costs of Correspondence

a. Each inmate shall pay personal mailing expenses, except an indigent inmate. An indigent inmate shall have access to postage necessary to send two personal letters per week, postage necessary to send out approved legal mail on a reasonable basis and basic supplies necessary to prepare legal documents. A record of such access shall be kept and the indigent inmate's account shall reflect the cost of the postage and supplies as a debt owed in accordance with department regulations. Stationery, envelopes and stamps shall be available for purchase in the canteen.

b. E-mail shall only be available to inmates who have electronic postage capabilities through the department's contractor for inmate services.

5. Outgoing General Correspondence and Farm Mail

a. Review, Inspection and Rejection. Outgoing general correspondence and farm mail shall not be sealed by the inmate and may be read and inspected by staff. Outgoing e-mail may also be read by staff. The objectives to be accomplished in reading outgoing mail differ from the objectives of inspection. In the case of inspection, the objective is primarily to detect contraband. The reading of mail and e-mail is intended to reveal, for example, escape plots, plans to commit illegal acts, or plans to violate facility rules or other security concerns. Outgoing general correspondence and farm mail may be restricted, confiscated, returned to the inmate, retained for further investigation, referred for disciplinary proceeding or forwarded to law enforcement officials, if review discloses correspondence or materials which contain or concern:

i. the transport of contraband in or out of the facility;

ii. plans to escape;

iii. plans for activities in violation of facility or department rules;

iv. information which, if communicated, would create a clear and present danger of violence and physical harm to a human being;

v. letters or materials written in code or a foreign language when the inmate understands English (unless the warden or designee determines the recipient is not fluent in English);

vi. mail which attempts to forward unauthorized correspondence to a third party;

vii. threats to the safety and security of staff, other inmates, the public, or facility order, discipline, or rehabilitation (including racially inflammatory material);

viii. sexually explicit material;

ix. other general correspondence for which rejection is reasonably related to a legitimate penological interest.

b. Notice of Rejection. The inmate sender shall be notified within three working days, in writing, of the correspondence rejection and the reason therefore on the incoming/outgoing general correspondence, farm mail and e-mail notice of rejection. Any further delay in notification shall be based on ongoing investigation which would be compromised by notification. Rejections are appealable through the administrative remedy procedure.

c. Limitations on Restrictions. Any restrictions imposed on outgoing general correspondence and farm mail shall be unrelated to the suppression of expression and shall not be restricted solely based on unwelcome or unflattering opinions. Communication of malicious, frivolous, false, and/or inflammatory statements or information, the purpose of which is reasonably intended to harm, embarrass, or intimidate an employee, visitor, guest or inmate shall be rejected. This shall not apply to information and/or statements communicated for the express purpose of obtaining legal assistance.

d. Procedures for Mailing. Outgoing general correspondence and farm mail shall be inserted into the envelope and left unsealed by the inmate. All outgoing correspondence shall include:

i. a complete legible name and address of the party to whom the correspondence is being sent;

ii. the inmate's name, DOC number, housing unit, and the name and mailing address of the facility, which shall be written or typed on the upper left hand corner of the envelope. Drawings, writing, and marking on envelopes, other than return and sending address, are not permitted. All outgoing general correspondence shall be stamped in the mailroom to indicate it originates in a correctional facility;

iii. outgoing e-mails shall be processed electronically and scanned for contents and phrases.

6. Incoming General Correspondence

a. Review, Inspection, and Rejection. All incoming general correspondence and e-mails must contain the return address of the sender, the name and DOC number of the inmate, and the name and mailing address of the facility. All incoming general correspondence shall be opened and inspected for contraband, cash, checks, and money orders, and subject to being read. Any stick on label or stamp may be removed if it appears to contain contraband. All incoming general correspondence may be rejected if such review

discloses correspondence or material(s) which would reasonably jeopardize legitimate penological interests, including, but not limited to, material(s) which contain or concern:

i. the transport of contraband in or out of the facility;

ii. plans to escape;

iii. plans for activities in violation of facility or department rules;

iv. plans for criminal activity;

v. violations of this regulation or unit rules;

vi. letters or materials written in code;

vii. threats to the safety and security of staff, other inmates, or the public, facility order, or discipline, or rehabilitation, (including racially inflammatory material);

viii. sexually explicit material;

ix. greeting cards and post cards, excluding those mailed by an approved third-party vendor;

x. decorative stationary or stationary with stickers;

xi. other general correspondence for which rejection is reasonably related to a legitimate penological interest.

b. Incoming general correspondence containing any of the foregoing may be restricted, confiscated, returned to the sender, retained for further investigation, referred for disciplinary proceedings, or forwarded to law enforcement officials.

c. Notice of Rejection. The inmate shall be notified within three working days, in writing, of the correspondence or e-mail rejection and the reason therefore on the incoming/outgoing general correspondence, farm mail and e-mail notice of rejection. Any further delay in notification shall be based on ongoing investigation which would be compromised by notification. Rejections are appealable through the administrative remedy procedure.

7. Monetary Remittances

a. Incoming. Funds may only be sent to the facility and processed for hobby craft purchases properly supported by a hobby craft agreement in accordance with established policy and procedures.

b. For hobby craft purchases, money from permissible sources may be accepted in the following forms:

i. postal, bank or commercially issued money orders;

ii. bank cashier checks;

iii. cash;

iv. personal checks.

c. All other inmate funds shall be processed through the department's contractor for inmate services in accordance with established policy and procedures.

d. Upon discovery of cash, multiple party checks, personal checks not for hobby craft purchases, or any other funds received in the mail for an inmate, the inmate shall be sent a monetary remittances notice of rejection within three working days describing the contents of the mail, the date of its receipt and advising the inmate has seven working days to provide return postage. If return postage is not provided within seven working days, the postage will be provided by the unit. The inmate's banking account shall be charged if funds are available. If funds are unavailable, a debt owed will be established pursuant to department regulations.

8. Identification of Privileged Correspondence. It is the responsibility and duty of facility staff to verify the legitimacy of the official listed on the envelope. For purposes of this regulation, "identifiable" means the official or legal capacity of the addressee is listed on the envelope and is verifiable. If not, then the letter shall be treated as general correspondence; and an appropriate inquiry shall be made into the inmate's intent in addressing the envelope as privileged mail.

a. Facility staff shall verify the sender of all privileged mail to ensure the mail was sent by the identified sender's office and is not fraudulently labeled as privileged mail.

9. All outgoing privileged correspondence shall include:

a. a complete legible name and address of the party to whom correspondence is being sent;

b. the inmate's name, DOC number, housing unit, and the address of the facility on the upper left hand corner of the envelope. Drawings, writing, and markings on envelopes, other than return and sending address, are not permitted. All outgoing privileged correspondence shall be stamped in the mailroom to indicate the correspondence originates from a correctional facility;

c. outgoing privileged correspondence may be posted sealed, and shall not be opened and inspected without express authorization from the warden or deputy warden as specified in Paragraph F.11 of this Section.

10. Incoming Privileged Correspondence

a. All incoming privileged correspondence must contain the return address of the sender and the name and DOC number of the inmate, and the name and mailing address of the facility. All incoming privileged correspondence shall be opened in the presence of the inmate to whom it is addressed and shall be inspected for the presence of cash, checks, money orders, and contraband and to verify; as unobtrusively as possible, that the correspondence does not contain material that is not entitled to the privilege. When the material is inspected and is found to be bound or secured in any manner that would prevent the thorough inspection of the document, the inmate shall have the option of allowing staff to take the document apart for adequate inspection or of returning the material to the sender to require the material be returned in a loose manner to allow for proper inspection. Additionally, inmates receiving legal material in the form of a compact disc shall have the option of paying for copies to be made by the facility or of returning the disc to the sender in order to require the material be converted to paper copies. Payments for paper copies of legal material from a compact disc shall be in accordance with established policy and procedures.

b. Incoming privileged mail may be opened and inspected outside the inmate's presence in the circumstances outlined in Paragraph F.11 of this Section.

i. Inspection and Rejection. When, in the course of inspection, cash, checks, or money orders are found, they shall be removed and forwarded to the business office. The business office shall verify the legitimacy of the transaction in accordance with established policy and procedures.

ii. If material is found that does not appear to be entitled to the privilege, or if any of the circumstances outlined in Paragraph F.11 of this Section exist, then the mail

may be restricted, confiscated, returned to sender, retained for further investigation, referred for disciplinary proceedings, or forwarded to law enforcement officials.

iii. Notice of Rejection. The offender shall be notified in writing within three working days of the correspondence's rejection and the reason for rejection on the privileged correspondence notice of rejection describing the reason for the rejection and advising the inmate has seven working days to determine the disposition of the correspondence. Rejections shall be appealable through the administrative remedy procedure.

iv. Accidental Opening. If privileged correspondence is opened accidentally, outside the presence of the inmate, the envelope shall be immediately stapled or taped closed and the envelope marked "accidentally opened" along with the date and employee's initials. An unusual occurrence report shall be completed.

11. Mail Precautions

a. The wardens and deputy wardens are authorized to open and inspect incoming and outgoing privileged mail outside the inmate's presence in the following circumstances:

i. letters that are unusual in appearance or appear different from mail normally received or sent by the individual or public entity;

ii. letters that are of a size or shape not customarily received or sent by the individual or public entity;

iii. letters that have a city and/or state postmark that is different from the return address;

iv. letters that are leaking, stained, or emitting a strange or unusual odor or have a powdery residue;

v. when reasonable suspicion of illicit activity resulted in a formal investigation and such inspection was authorized by the secretary or designee.

12. Inmate Organizations. Inmate organizations shall pay the postage costs for all of their outgoing mail. All outgoing mail must be approved by the inmate organization sponsor.

G. Procedures for Publications

1. Publications (see definition in Subsection E) may be read and inspected to discover contraband and unacceptable depictions and literature. Unless otherwise provided by the rules of the facility, all printed matter must be received directly from the publisher. Multiple copies of publications for any one individual inmate are not allowed. Samples inserted in publications will be removed prior to delivery.

2. Newspaper and magazine clippings (xerox copies allowed), as well as articles printed from the internet are considered publications for the purpose of review pursuant to this regulation. However, they are not required to originate from the publisher. A limit of five clippings/articles may be received within a piece of regular correspondence and the quantity received may be further limited by what can be reasonably reviewed for security reasons in a timely manner. Multiple copies of the same clippings/articles for any one individual inmate are not allowed. Inclusion of clippings/articles in regular correspondence may delay the delivery.

3. Refusal of Publications. Printed material shall only be refused if it interferes with legitimate penological

objectives (including but not limited to deterrence of crime, rehabilitation of inmates, maintenance of internal/external security of a facility or maintenance of an environment free of sexual harassment), or if the refusal is necessary to prevent the commission of a crime or to protect the interests of crime victims. This would include, but not be limited to, the following described categories:

- a. security issues:
 - i. maps, road atlas, etc. that depict a geographic region that could reasonably be construed to be a threat to security;
 - ii. writings that advocate, assist, or are evidence of criminal activity or facility misconduct;
 - iii. instructions regarding the ingredients or manufacturing of intoxicating beverages or drugs;
 - iv. information regarding the introduction of, or instructions in the use, manufacture, storage, or replication of weapons, explosives, incendiaries, escape devices, or other contraband;
 - v. instructs in the use of martial arts;
 - vi. racially inflammatory material or material that could cause a threat to the inmate population, staff, and security of the facility;
 - vii. writings which advocate violence or which create a danger within the context of a correctional facility;
- b. sexually explicit material:
 - i. it is well established in corrections that sexually explicit material causes operational concerns. It poses a threat to the security, good order and discipline of the facility and can facilitate criminal activity. Examples of the types of behavior that result from sexually explicit material include non-consensual sex, sexual molestation of other inmates or staff, masturbation or exposing themselves in front of staff, inappropriate touching or writing to staff, or other forms of sexual harassment of staff and/or inmates;
 - ii. sexually explicit material can portray women or men in dehumanizing, demeaning, and submissive roles, which, within an institutional setting, can lead to disrespect and the sexual harassment of female or male correctional staff. Lack of respect and control in dealing with inmates can endanger the lives and safety of staff and inmates;
 - iii. viewing of sexually explicit material undermines the rehabilitation of inmates as it can encourage deviant, criminal sexual behavior. Additionally, once sexually explicit material enters a facility, it is impossible to control who may view it. When viewed by an incarcerated sex offender, it can undermine or interrupt rehabilitation efforts;
 - iv. publications depicting nudity or sexually explicit conduct on a routine or regular basis or promotes itself based upon such depictions in the case of individual one time issues will not be allowed;
- c. when screening publications for acceptability, the following categories shall be utilized:
 - i. category 1—presumption of non-acceptability;
 - ii. category 2—those that need to be reviewed on a case-by-case basis prior to allowing them to be delivered to the recipient and subject to review by the regional warden;
 - iii. category 3—presumption of acceptability;

d. publications can be added, deleted or moved from one category to another at the discretion of the secretary at any time;

e. when a facility receives a Category 2 publication which has not already been ruled on by the regional wardens, the mailroom shall send the inmate a notice of pending review of publication and shall forward the publication to the regional warden who shall determine acceptability. When a facility suspends delivery of an issue of a Category 3 publication, the regional warden shall be notified. The mailroom shall send the inmate a notice of pending review of publication. The regional wardens shall determine if the publication may be moved to Category 2. When magazines are received that are not currently listed, the regional warden shall be notified;

f. procedures when publication is refused. The inmate shall be notified within three working days of the refusal and the reason therefore on the publications notice of rejection describing the reason for the rejection and advising that he has seven working days to determine the publication's disposition. Rejections shall be appealable through the administrative remedy procedure. The facility should retain possession of the disputed item(s) until the exhaustion of administrative and judicial review.

H. Procedures for Photographs, Digital or Other Images

1. Inmates shall not be allowed to receive or possess photographs or digital or other images that interfere with legitimate penological objectives (including but not limited to deterrence of crime, rehabilitation of inmates, maintenance of internal/external security of a facility, or maintenance of an environment free of sexual harassment), or to prevent the commission of a crime or to protect the interests of crime victims. This paragraph's prohibitions include photographs, digital or other images which expose the genitals, genital area (including pubic hair), anal area, or female breasts (or breasts which are designed to imitate female breasts). These areas must be covered with garments which cannot be seen through. To promote the safety, rehabilitation, health, and welfare of inmate sex offenders and the general inmate population, sex offender inmates shall be prohibited from receiving from any source or possessing any images of children if the sex offender inmate's victim was a minor. The warden or designee may grant exceptions on a case-by-case basis.

2. Lingerie normally shall be unacceptable, whether transparent or not. Swimwear will only be acceptable if the overall context of the picture is reasonably related to activities during which swimwear is normally worn. Suggestive poses alone may be sufficient cause of rejection regardless of the type of clothing worn.

3. Each facility shall develop a procedure that serves to reasonably restrict an inmate's possession of multiple copies of the same photograph or digital or other image.

4. Hard backed and laminated photographs or digital or other images that are subject to alteration or modification may be rejected.

5. The term "photograph" includes other images such as those created by a digital imaging device or e-mails.

6. The inmate shall be notified within three working days, in writing, of the photograph rejection and the reason

therefore on the photographs notice of rejection describing the reason for the rejection and advising that he has seven working days to determine the photograph's disposition. Rejections are appealable through the administrative remedy procedure.

I. Procedures for Death Row Inmates Correspondence

1. Pursuant to the provisions of Act No. 799 of the 2012 Regular Session, the following procedures provide for the review and inspection of incoming and outgoing correspondence of death row inmates to ensure no contractual arrangements are being contemplated or in effect that would allow the inmate to profit from his crimes of notoriety.

a. All incoming and outgoing general correspondence, including packages, shall be inspected.

b. Incoming and outgoing privileged mail shall be inspected outside the inmate's presence when there is reasonable suspicion contraband is being sent to the inmate or from the inmate, or the inmate is contemplating a contractual arrangement that would result in the inmate receiving any type of profits or proceeds relative to the inmate's criminal acts. The warden or deputy warden shall authorize such inspection.

c. In the event it is determined that the inmate is contemplating or has established a contractual arrangement, the information shall be immediately reported by the warden to the secretary, who shall notify the attorney general's office pursuant to established procedures.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:833(A), *Guajardo v. Esteile*, 580 F.2d 748 (5th Cir.1978).

HISTORICAL NOTE: Promulgated by the Department of Corrections, Office of Adult Services, LR 5:4 (January 1979), amended LR 10:803 (October 1984), LR 11:360 (April 1985), amended by the Department of Public Safety and Corrections, Corrections Services, LR 33:851 (May 2007), LR 38:830 (March 2012), LR 39:2281 (August 2013), LR 41:2665 (December 2015), LR 43:1187 (June 2017), LR 49:502 (March 2023), LR 49:1747 (October 2023).

James M. Le Blanc
Secretary

2310#018

RULE

**Department of Revenue
Policy Services Division**

**Collection Fee
(LAC 61:III.3101)**

Under the authority of R.S. 47:1511 and 1676, and in accordance with the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Revenue, Policy Services Division, has adopted LAC 61:III.3101.

Louisiana Revised Statutes 47:1676(C)(2)(a) provides that agencies that do not have a collection contract with the Attorney General's Office for the collection of delinquent debts shall refer all final delinquent debt to the Office of Debt Recovery ("Office") for collection. Referring agencies must include data and information in the required format necessary to institute collection procedures. All delinquent debts shall be authenticated by the referring agency or officer prior to being referred to the office. Once the debt

becomes final, and prior to referral to the office, the referring agency shall notify the debtor that failure to pay the debt in full within sixty days shall subject the debt to the office's collection fee. The office's collection fee is in addition to the collection fees already included in the delinquent debt by the referring agency. Louisiana Revised Statutes 47:1676(E) mandates that the office charge the debtor a fee not to exceed twenty-five percent of the total liability of the final debt. The fee is to become effective on January 1, 2024. Debtors whose final delinquent debt has been referred to the office on or after January 1, 2024 will be assessed a fee equal to fifteen percent of the final delinquent debt. This Rule is hereby adopted on the day of promulgation.

Title 61

REVENUE AND TAXATION

Part III. Administrative and Miscellaneous Provisions

Chapter 31. Office of Debt Recovery

§3101. Collection Fee

A. Pursuant to R.S. 47:1676(E), the Office of Debt Recovery shall charge a fee on debts referred to it for collection. The fee shall not exceed 25 percent of the total liability and is to be established by rule.

B. A collection fee equal to 15 percent of the total liability of debt shall be due on all debts referred to the Office of Debt Recovery on or after January 1, 2024. This collection fee shall be retained by the Office of Debt Recovery and distributed in accordance with R.S. 47:1676(E).

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1511 and R.S. 47:1676.

HISTORICAL NOTE: Promulgated by the Department of Revenue, Policy Services Division, LR 49:1752 (October 2023).

Kevin J. Richard, CPA
Secretary

2310#013

RULE

**Department of Treasury
Board of Trustees of the Louisiana State Employees'
Retirement System**

DROP Program (LAC 58:I.2713)

The Department of Treasury, Board of Trustees of the Louisiana State Employees' Retirement System ("LASERS") has amended a provision in Chapter 27 of Part I of LAC Title 58. The rule change is required to comply with changes in federal law made by the SECURE 2.0 Act, which became law in December of 2022. The Act changed the time when a Required Minimum Distribution ("RMD") must be made from Deferred Option Retirement Plan ("DROP") accounts of LASERS retirees. The age was moved from age 72 to age 73. This Rule is hereby adopted on the day of promulgation.

Title 58

RETIREMENT

Part I. Louisiana State Employees' Retirement System

Chapter 27. DROP Program

Subchapter C. Withdrawal

§2713. Time for Disbursement

A. - B. ...

C. When a retiree reaches age 73, mandatory annual distributions shall begin in accordance with IRS regulations. The amount of the distributions will be recalculated annually.

D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:515.

HISTORICAL NOTE: Promulgated by the Department of Treasury, Board of Trustees of the State Employees' Retirement

System, LR 22:373 (May 1996), amended LR 25:2466 (December 1999), LR 29:1121 (July 2003), LR 30:2079 (September 2004), LR 32:1070 (June 2006), LR 35:2476 (November 2009), LR 46:1695 (December 2020), LR 49:1752 (October 2023).

Trey Boudreaux
Executive Director

2310#014

Notices of Intent

NOTICE OF INTENT

Department of Culture, Recreation and Tourism Office of State Parks

Advertising on State Parks and Historic Sites and Sponsorship of Agency Assets (LAC 25:IX.601)

Notice is hereby given in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and through the authority granted in R.S. 44:718(D) that the Department of Culture, Recreation and Tourism, Office of State Parks (DCRT-OSP) proposes to adopt LAC 25: Part IX, Office of State Parks, Chapter 6, Section 601.

DCRT-OSP is adopting rules to comply with Act 117 of the 2023 Regular Legislative Session which authorizes the secretary of the department to enter into sponsorship agreement and allow placement of advertising and sponsorship signs on department property.

Title 25

CULTURAL RESOURCES

Part IX. Office of State Parks

Chapter 6. Advertising on State Parks and Historic Sites and Sponsorship of Agency Assets

§601. Procedures and Guidelines

A. The purpose of the section is to establish a policy to allow limited types of advertising and sponsorship on assets owned or controlled by OSP to raise revenue for increased self-sufficiency and for the implementation of new opportunities and amenities for the public's benefit.

1. The agency recognizes that entering into a sponsorship agreement with an external entity does not constitute an endorsement of the entity or its services and products but does imply an affiliation. Such affiliation can affect the reputation of the state among its citizens and its ability to govern effectively. Therefore, any proposal for sponsorship of a state program or service in which the involvement of an outside entity compromises the public's perception of the state's neutrality or its ability to act in the public interest will be rejected.

B. The agency may issue solicitations or notices to secure contracts to determine the market potential for advertisements or sponsorships or to place advertisements or sponsorship signs on agency assets.

1. The responses will be reviewed by a committee appointed by the assistant secretary, and the most suitable proposals, as determined by the committee, may be selected.

2. The committee has the discretion to make reasonable recommendations to the assistant secretary concerning the types of advertising or sponsorship that may be displayed utilizing the criteria established herein.

3. The assistant secretary shall have final discretion regarding which proposals are selected. Selections shall be made for those advertisements or sponsorships that do not impact or infringe upon the image or reputation of the agency.

4. The agency may limit the number and type of assets available for advertising or sponsorship signs.

5. The agency may limit the authorization to advertise or to place sponsorship signs among the agency's divisions, sections, programs and initiatives.

6. The agency may limit the terms and conditions of the contract with an advertiser or sponsor.

C. The agency shall consider the following criteria before entering into a sponsorship agreement:

1. Whether the sponsorship is consistent with the goals, objectives, and mission of the agency and the current priorities that support these goals, objectives, and mission; and:

a. the importance of the sponsorship to the mission of the agency;

b. the extent and prominence of the public display of sponsorship;

c. aesthetic characteristics of the public display of sponsorship;

d. the cooperation necessary from the agency to implement the sponsorship;

e. any inconsistencies between the agency's policies and the known policies of the potential sponsor; and

f. other factors that might undermine public confidence in the agency's impartiality or interfere with the efficient delivery of agency services or operations, including, but not limited to, current or potential conflicts of interest, or perception of a conflict of interest, between the sponsor and agency employees, officials, or affiliates; and the potential for the sponsorship to tarnish the state's standing among its citizens or otherwise impair the ability of the state to govern its citizens.

2. The amount of the approved financial or in-kind support is at the discretion of the agency.

3. Sponsorship agreements shall include a termination clause giving the agency the right to end such agreement at any time based on any of the following:

a. safety concerns;

b. a determination that the sponsorship agreement or acknowledgement is not in the public interest;

c. for the convenience of the agency.

D. The advertisement or sponsorship content shall only include content that promotes or informs a commercial transaction. Only commercial advertising or sponsorships that are tasteful, visually appealing with inoffensive content will be accepted.

1. No content promoting illegal activity or obscene, vulgar or offensive conduct shall be allowed.

2. No political advertising shall be allowed.

3. No content that demeans or disparages individuals or groups shall be allowed.

4. No advertising or sponsorship signs of adult-oriented products shall be allowed.

5. The advertising or sponsorship should not be so controversial that it can promote vandalism of advertising or sponsorship materials and associated agency property.

E. Advertising or sponsorship signs may be placed on immovable property, improvements on immovable property, vehicles, watercraft, and other assets of the agency, including but not limited to websites, social media platforms, pamphlets, brochures and other outreach, communications, and educational materials.

1. The agency will maintain full ownership of any sponsored product, event, and asset.

2. The agency shall maintain all authorship rights to publications.

3. The sponsoring organization is not permitted to charge fees for state owned products, events, or access to state property.

4. The sponsoring organization is not permitted to alter publications or other property without the written permission of the agency.

F. Advertising or sponsorship signs shall not be placed in a manner that could interfere or confuse the identification of the agency's ownership or control of the asset.

1. Specification regarding the size, types, duration, and placement of advertisements and sponsorship signs will be negotiated and finally approved by the assistant secretary conforming with the mission of the agency.

2. On vehicles, watercrafts, and other assets of the agency traditionally utilized in the transport of personnel or equipment, advertising or sponsorship signs may be placed on the inside or the outside of the equipment. However, the display shall not be placed in such a manner that impedes the asset's safe utilization or operation.

a. Advertising or sponsorship signs shall not be allowed on vehicles, watercrafts and other assets traditionally utilized in the transport of personnel and equipment that are under the control or operation of OSP law enforcement positions.

3. The advertiser or sponsor will be required by the agency to submit and maintain detailed plans and provisions for any advertising or sponsorship signs that require a power source, such as electronics or LED lighting.

a. The use of powered advertising or sponsorship devices shall not have any adverse effect on the safety and functionality of the asset. If the safety and functionality of the asset is compromised after installation, the signs shall be removed.

G. OSP shall prepare and submit timely reports in accordance with R.S. 36:204(B)(11)(c).

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:204 (B)(11).

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation and Tourism, Office of State Parks, LR 49:

Family Impact Statement

The proposed Rule is not anticipated to have an impact on family functioning, stability, or autonomy as described in R.S. 49:972.

Poverty Impact Statement

The proposed Rule is not anticipated to have an impact on poverty as defined by R.S. 49:973.

Small Business Analysis

Pursuant to R.S. 49:965.6, methods for reduction of the impact on small business, as defined in the Regulatory Flexibility Act, have been considered when creating this proposed Rule.

This proposed Rule is not anticipated to have an adverse impact on small business; therefore, a Small Business Economic Impact Statement has not been prepared.

Provider Impact Statement

The proposed Rule is not anticipated to have an impact on providers of services funded by the state as described in HCR 170 of the 2014 Regular Legislative Session. In particular, there should be no known or foreseeable effect on:

1. the effect on the staffing level requirements or qualification required to provide the same level of service;

2. the total direct and indirect effect on the cost to provide the same level of service; or

3. 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 until 5 p.m., October 20, 2023, to Mr. Kevin Kleinpeter, Attorney for the Office of State Parks, P.O. Box 44426, Baton Rouge, LA 70804. He is responsible for responding to inquiries regarding the proposed Rule.

Brandon Burris
Assistant Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Advertising on State Parks and Historic Sites and Sponsorship of Agency Assets

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

The proposed rule change is not anticipated to increase costs for the Office of State Parks (OSP). Implementation will be absorbed within existing resources and staff. The rule change is needed to comply with Act 117 of the 2023 Regular Legislative Session which authorizes the secretary of the department to enter into sponsorship agreements and allow placement of advertising and sponsorship signs on department property.

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

The proposed rule change is expected to increase revenue collections, but the precise amount is not quantifiable at this time.

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

The proposed rule change will allow external entities to advertise on OSP property or enter into sponsorship agreements with state parks and historic sites. This may provide an economic benefit to entities who enter into these agreements resulting from increased publicity.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule change is not estimated to have any effect on competition and employment.

Brandon Burris
Asst. Secretary
2310#004

Patrice Thomas
Deputy Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

Board of Elementary and Secondary Education

Associate Teacher Program
(LAC 28:CXV.525)

In accordance with the provisions of R.S. 17:6(A)(10) and the Administrative Procedure Act (APA), R.S. 49:953(B)(1) et seq., the Board of Elementary and Secondary Education (BESE) proposes to amend LAC 28:CXV in *Bulletin 741—Louisiana Handbook for School Administrators*. The aforementioned revisions align BESE policy with Act 99 of the 2023 Regular Legislative Session, which sets forth requirements regarding the implementation of the associate teacher program.

Title 28 EDUCATION

Part CXV. Bulletin 741—Louisiana Handbook for School Administrators

Chapter 5. Personnel

§525. Associate Teacher Program

A. An associate teacher is an employee authorized by the local governing authority (LEA) of a public elementary or secondary school to serve as a teacher of record. Such teacher must:

1. be at least 25 years old;
2. hold an associate's degree awarded by a college or university accredited in accordance with 34 CFR 602, et seq.;
3. be continuously enrolled in an undergraduate educator preparation program at a college or university accredited in accordance with 34 CFR 602, et seq., for the purpose of obtaining a bachelor's degree; and
4. meet any other qualifications established by the LEA.

B. The LEA shall conduct a criminal history background check in accordance with R.S. 17:15 and R.S. 15:587.1 prior to employment.

C. An individual shall not serve as a teacher of record under an associate teacher permit for more than five years.

D. An associate teacher shall be employed to teach only in the content area related to the associate's degree.

E. An associate teacher shall not teach in a class for students with identified exceptionalities, unless the students are identified as gifted or talented.

F. The LEA should assign a mentor teacher to an associate teacher for the purposes of providing on-site teacher training, demonstrating lessons, co-teaching, observation, and providing feedback for improving instruction.

G. Associate teachers shall participate in weekly teacher collaborations.

H. For an associate teacher enrolled in a BESE-approved teacher preparation program, hours spent teaching by an associate teacher shall count toward the student teaching hours required in accordance with R.S. 17:8.1 and LAC 28:XLV.743 (*Bulletin 996*).

I. No more than 10 percent of the teaching staff of the school system shall be associate teachers.

J. Associate teachers shall be annually evaluated.

K. Documentation of the local permit must be maintained by the LEA and the associate teacher. The LEA

must document compliance with the provisions of this Section.

L. LEAs shall provide information regarding the effectiveness of the associate teacher program, as requested, to the LDOE.

M. The salary paid to an associate teacher shall not exceed 75 percent of the average yearly classroom teacher salary of the employing school system.

N. The provisions of this Section shall terminate on December 31, 2033.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6, 17:8, and 17:3902.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 50:

Family Impact Statement

In accordance with section 953 and 974 of title 49 of the Louisiana Revised Statutes, there is hereby submitted a Family Impact Statement on rules proposed for adoption, repeal, or amendment. All Family Impact Statements will be kept on file in the state board office which has adopted, amended, or repealed rules in accordance with the applicable provisions of the law relating to public records.

1. Will the proposed Rule affect the stability of the family? No.

2. Will the proposed Rule affect the authority and rights of parents regarding the education and supervision of their children? No.

3. Will the proposed Rule affect the functioning of the family? No.

4. Will the proposed Rule affect family earnings and family budget? No.

5. Will the proposed Rule affect the behavior and personal responsibility of children? No.

6. Is the family or a local government able to perform the function as contained in the proposed Rule? Yes.

Poverty Impact Statement

In accordance with section 973 of title 49 of the Louisiana Revised Statutes, there is hereby submitted a Poverty Impact Statement on rules proposed for adoption, amendment, or repeal. All Poverty Impact Statements will be in writing and kept on file in the state agency which has adopted, amended, or repealed rules in accordance with the applicable provisions of the law relating to public records. For the purposes of this section, the word "poverty" means living at or below 100 percent of the federal poverty line.

1. Will the proposed Rule affect the household income, assets, and financial authority? Yes.

2. Will the proposed Rule affect early childhood development and preschool through postsecondary education development? No.

3. Will the proposed Rule affect employment and workforce development? Yes.

4. Will the proposed Rule affect taxes and tax credits? No.

5. Will the proposed Rule affect child and dependent care, housing, health care, nutrition, transportation, and utilities assistance? No.

Small Business Analysis

The impact of the proposed Rule 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 rule that will accomplish the objectives of applicable statutes while minimizing the adverse impact of the proposed rule on small businesses.

Provider Impact Statement

The proposed Rule should not have any known or foreseeable impact on providers as defined by HCR 170 of the 2014 Regular Legislative Session. In particular, there should be no known or foreseeable effect on:

1. the staffing level requirements or qualifications required to provide the same level of service;
2. the cost to the providers to provide the same level of service; or
3. the ability of the provider to provide the same level of service.

Public Comments

Interested persons may submit written comments via the U.S. Mail until noon, November 9, 2023, to Shan N. Davis, Executive Director, Board of Elementary and Secondary Education, Box 94064, Capitol Station, Baton Rouge, LA 70804-9064. Written comments may also be hand delivered to Shan Davis, Executive Director, Board of Elementary and Secondary Education, Suite 5-190, 1201 North Third Street, Baton Rouge, LA 70802 and must be date stamped by the BESE office on the date received. Public comments must be dated and include the original signature of the person submitting the comments.

Shan N. Davis
Executive Director

stipend payments to mentor teachers who may be assigned to participants, subject to appropriation of funds for that purpose. All of these impacts are dependent on the extent to which an LEA opts to participate in the program.

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

The proposed rule revisions will not have a determinable effect on revenue collections of state or local governmental units.

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

The proposed rule revisions will provide individuals holding an associate's degree who are interested in becoming a teacher a means to work in the school setting, making 75% of the average teacher salary in the school district. This represents a potential increase in quality of life and family income for these individuals as well as giving them the opportunity to gain teaching experience. Employers will have an additional route to explore in filling classroom vacancies with individuals who can provide stability for students.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule revisions provide an additional route by which schools may employ individuals who wish to become educators, effective through December 31, 2033. The proposed rule revisions will provide LEAs who opt to participate in the program the opportunity to address teacher shortages by expanding the pool of qualified candidates. This expansion may also lead to increased competition for teaching positions.

Beth Scioneaux
Deputy Superintendent
2310#028

Patrice Thomas
Deputy Fiscal Officer
Legislative Fiscal Office

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Associate Teacher Program

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

The proposed rule revisions set forth the requirements regarding the implementation of the associate teacher program established by Act 99 of the 2023 Regular Legislative Session. The program allows for individuals who possess an associate's degree, who are at least 25 years of age, and meet other requirements outlined by law, to work as teachers in the content area related to his or her associate's degree, for no more than five years.

There are no anticipated implementation costs or savings to state governmental units due to the proposed rule revisions. The Louisiana Department of Education (LDOE) reports there will be no impact on expenditures at the department level. The program will require enhancements to the current LDOE data system to collect relevant staffing data; however, that cost is already covered by an existing contract.

Local education agencies (LEAs) opting to participate in the program may see a decrease in expenditures as the salary of program participants is capped at 75 percent of the average classroom teacher salary of the employing school system. Up to 10 percent of the teaching staff in a school district can be program participants. LEAs may see a minimal increase in expenditures associated with required criminal history record checks for participants. The LFO estimates that a single criminal history record check will cost \$54.25, composed of a \$13.25 federal background check fee, a \$26 state background check fee, a \$10 vendor fingerprinting fee, and a \$5 sheriff's technology fee. LEAs would also be responsible for \$2,000

NOTICE OF INTENT

Board of Elementary and Secondary Education

School Administration and Safety
(LAC 28:LXXIX.107, 125, 1309, 1901; CXIII.903;
CXV.337, 339, 504, 511, 915, 1103, 1127, 1315, 2305,
2317, 2367; CXXXIX.4003 and CLVII.509)

In accordance with the provisions of R.S. 17:6(A)(10) and the Administrative Procedure Act (APA), R.S. 49:953(B)(1) et seq., the Board of Elementary and Secondary Education proposes to amend LAC 28:LXXIX. *Bulletin 741 (Nonpublic)—Louisiana Handbook for Nonpublic School Administrators*; LAC 28:CXIII. *Bulletin 119—Louisiana School Transportation Specifications and Procedures*; LAC 28:CXV. *Bulletin 741—Louisiana Handbook for School Administrators*; LAC 28:CXXXIX. *Bulletin 126—Charter Schools, and LAC 28:CLVII. Bulletin 135—Health and Safety*. The aforementioned revisions in LAC 28:LXXIX. *Bulletin 741 (Nonpublic)—Louisiana Handbook for Nonpublic School Administrators* set forth additional requirements regarding school accreditation, suicide prevention, transportation, and the repeal of teaching authorization requirements. The aforementioned revisions in LAC 28:CXIII. *Bulletin 119—Louisiana School Transportation Specifications and Procedures* implement additional requirements regarding the safe loading and unloading of students from buses and during carpool in elementary schools. The aforementioned revisions in LAC 28:CXV. *Bulletin 741—Louisiana Handbook for School*

Administrators set forth requirements regarding implementation of crisis management and response plans, display of the national motto, carpool and bus line procedures, recess time requirements, student absences regarding mental health, restrictions on corporal punishment, instruction on organ donation, updates to the community service diploma endorsement, numeracy professional development, and inclusion of a Bible literature elective course. Additionally, the aforementioned revisions repeal teaching authorization requirements. The aforementioned revisions in LAC 28:CXXXIX. *Bulletin 126—Charter Schools* establish the applicability of state laws to charter schools regarding instruction on organ donation, Bible literature elective course, and bus and carpool safety. Finally, the aforementioned revisions in LAC 28:CLVII. *Bulletin 135—Health and Safety* require that schools have an Automated External Defibrillator (AED) on the premises and set forth the requirements regarding implementation of cardiac emergency response plans.

Title 28
EDUCATION

Part LXXIX. Bulletin 741 (Nonpublic)—Louisiana
Handbook for Nonpublic School Administrators

Chapter 1. Operation and Administration

§107. School Approval

A. - D. ...

E. Classification Categories. Schools shall be classified according to the following categories:

1. *approved (A)*—school meets all standards specified for approval of nonpublic schools. There shall be two types of approved schools:

a. *accredited approved school*—school is currently accredited by:

i. the Southern Association of Colleges and Schools Commission on Colleges (SACSCOC);

ii. a member of the National Association of Independent Schools (NAIS);

iii. the diocese or archdiocese in which the school is located; or

iv. Cognia.

v. The LDOE may also accept accreditation from other school accreditation agencies, but may require that the school submit additional information or documentation to ensure consistent quality.

vi. The school meets all other criteria for BESE approval in accordance with this Part.

E.1.b. - J. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 and R.S. 17:4021.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2342 (November 2003), amended LR 31:3073 (December 2005), LR 36:2847 (December 2010), LR 37:2145 (July 2011), LR 39:306 (February 2013), LR 39:1438 (June 2013), LR 39:3070 (November 2013), LR 50:

§125. Teaching Authorization

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), (11), and (15), 17:7(6), 17:10, 17:22(6), 17:391.1-391.10, and 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 44:2132 (December 2018), repromulgated LR 45:38 (January 2019), repealed LR 50:

Chapter 13. Preventive Programs

§1309. Suicide Prevention

A. - A.7. ...

B. The governing authority of each public secondary school that issues student identification cards shall have printed on the cards and shall have posted on the school website the following information:

1. - 2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), (11), and (15), 17:7(6), 17:10, 17:22(6), 17:391.1-391.10, 17:411, and 17:437.1.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 45:38 (January 2019), amended LR 45:1055 (August 2019), amended LR 45:1747 (December 2019), LR 50:

Chapter 19. Support Services

§1901. Transportation

A. ...

B. When bus transportation is provided by a city, parish, or other local public school board, the nonpublic school shall establish written policies regarding carpool and bus line procedures in accordance with LAC 28:CXIII.903. (*Bulletin 119*).

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), (11), and (15), R.S. 17:7(6), R.S. 17:10, R.S. 17:22(6), R.S. 17:158(C), (D), and (H), R.S. 17:391.1-391.10, and R.S. 44:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2349 (November 2003), amended LR 31:3079 (December 2005), LR 39:1443 (June 2013), LR 50:

Part CXIII. Bulletin 119—Louisiana School
Transportation Specifications and Procedures

Chapter 9. Vehicle Operation

§903. Loading and Unloading

A. - C.4. ...

D. Operations: Safe Bus Loading and Unloading Students

1. ...

2. The bus driver should be especially watchful for clothing, book bags, or other carry-on items that could be caught in the handrail or the bus door, thereby possibly causing student injury. The bus driver should always scan the area around the bus door before placing the bus in motion.

3. During loading of students, the following are required:

a. Students shall remain a safe distance from the loading area in a designated location appropriate for the particular school building. A material or immaterial boundary intended to block passage shall define the area.

b. Students shall remain in the loading area until the bus comes to a complete stop.

c. The bus driver must allow all passengers to reach their respective seats before placing the bus in motion after passengers have boarded the bus.

4. ...

5. Signage shall be prominently posted with bus and carpool loading and unloading policy at any school that includes kindergarten through fifth grades.

E. Operations: Safe Carpool Loading and Unloading Students

1. Students shall remain a safe distance from the loading area in a designated location appropriate for the particular school building. A material or immaterial boundary intended to block passage shall define the area.

2. Students shall remain in the loading area until vehicles come to a complete stop.

3. Kindergarten through third grade students shall be accompanied by school personnel when walking to and from vehicles.

4. Students shall remain in appropriate passenger restraint until the vehicle comes to a complete stop prior to exiting the vehicle.

5. Signage shall be prominently posted with bus and carpool loading and unloading policy at any school that includes kindergarten through fifth grades.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:158, R.S. 17:160-161, R.S. 17:164-166, R.S. 32:80, and R.S. 32:318.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:835 (May 1999), amended LR 25:2169 (November 1999), LR 36:1470 (July 2010), LR 37:2123 (July 2011), LR 42:231 (February 2016), LR 50:243 (February 2023), LR 50:

Part CXV. Bulletin 741—Louisiana Handbook for School Administrators

Chapter 3. Operation and Administration

§337. Written Policies and Procedures

A. - B.39. ...

40. maintaining a supply of auto-injectable epinephrine in a secure location in each classroom assigned to a student deemed by a physician to be at high risk for anaphylactic reaction and incapable of self-administration of auto-injectable epinephrine, in accordance with R.S. 17:436.1;

41. display of the national motto in each classroom in each school under its jurisdiction in accordance with R.S. 17:262;

42. carpool and bus line procedures in accordance with LAC 28:CXIII.903 (*Bulletin 119*).

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6, R.S. 17:7(29), R.S. 17:81, R.S. 17:240, R.S. 17:100.8, 17:184, and R.S.17:437.2.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1261 (June 2005), amended LR 33:429 (March 2007), LR 35:1101 (June 2009), LR 36:1224 (June 2010), LR 37:1141 (April 2011), LR 37:1380, 1380 (May 2011), LR 37:2134 (July 2011), LR 38:40, 41 (January 2012), LR 39:2197 (August 2013), LR 40:2530 (December 2014), LR 48:1273 (May 2022), LR 50:33 (January 2023), LR 50:250 (February 2023), repromulgated LR 50:855 (May 2023), LR 50:

§339. Emergency Planning and Procedures

A. Each public school principal or school leader shall have a crisis management and response plan developed jointly with local law enforcement, fire, public safety, and emergency preparedness officials, that addresses the immediate response to emergency situations that may develop in schools. The plan shall seek to utilize resources and information available through the Louisiana Commission on School and Nonprofit Security. The principal or school leader shall:

1. submit the crisis management and response plan to the local superintendent, the LDOE, and the Center for Safe Schools within the Governor's Office of Homeland Security and Emergency Preparedness;

2. annually review the crisis management and response plan, revising as necessary;

a. When preparing or revising the plan, consult with the district threat assessment team. The principal and the threat assessment team shall determine whether to consider input from students enrolled in the school and their parents, faculty and staff, and community leaders. The principal of a high school shall seek and consider input from the students enrolled in the school who shall be represented by either the president of the senior class or the president of the student council and at least one other responsible student selected by the principal.

b. The district threat assessment team shall include the local school superintendent, principal(s) from each school, school facilities staff member, mental health professional, school resource officer, any ROTC instructor within the LEA, and the emergency preparedness and recovery point of contact.

c. The plan shall provide for an all-hazards approach response plan for emergency events, including any event with a hostage, an active shooter, or a building lockdown.

3. within the first 30 days of each school year, conduct a safety drill to rehearse the plan;

4. not later than seven days after each drill, submit a written report summarizing the details of the drill to the local superintendent, who shall comment on the drill to the principal, and the principal shall consider the comments when revising the plan;

5. be responsible for providing in-service training pertaining to the plan for all teachers and school employees each school year. Such training may be incorporated into a meeting or training session held for another purpose and shall involve local law enforcement, fire, public safety, and emergency preparedness officials in the preparation and presentation of the training. The training shall include an active shooter exercise and shall be reported to the local school superintendent and the LDOE;

6. provide for notification of parents, faculty, staff, and local public safety officials in the event of a shooting or other violent incident or emergency situation;

7. include a cardiac emergency response plan in accordance with LAC 28:CLVII. (*Bulletin 135*);

8. provide that classroom doors with locks shall be in accordance with all fire safety standards and shall remain locked during instructional time. Locked doors shall not obstruct egress.

9. The local school superintendent shall make an annual report to the public school governing authority on the status of the plan of each school under the governing authority's jurisdiction.

B. Repealed.

C. - G. ...

H. The school will establish procedures that detail the roles and responsibilities of each school employee and each local and state public safety and emergency preparedness office, including the relevant coordination agreements, services, and security measures of a school.

I. The governing authority of each public school will, as part of its school crisis management plan, develop resources, policies, procedures, and guidelines to address the potential of violence and terrorism in the schools under its jurisdiction.

1. Any full- or part-time administrator, teacher, counselor, bus operator, or other school employee who learns of a threat of violence or threat of terrorism, whether through oral, written, or electronic communication, shall immediately report the threat to a local law enforcement agency and, if the employee is not the school administrator, to the school administrator.

2. Upon being informed of the threat, the school administrator shall make reasonable efforts to attempt to inform all persons who are targets of the threat and shall take all necessary measures to protect lives and ensure safety.

3. The school administrator shall make reasonable efforts to attempt to notify the appropriate personnel within the school district administration.

4. The school administrator and the school district administrator shall then determine if risk is imminent for any other persons as a result of the threat, and if so, notify and take reasonable measures to protect lives and ensure safety.

5. The school administrator and the school district administrator shall determine whether to notify parents of the students at the school.

6. Where the district attorney, upon receiving report of a credible threat made by a student, does not file a petition during the seven days after receiving the report from a law enforcement agency, the student who is the subject of the complaint and investigation shall be permitted to return to school unless the student is charged with assault on a teacher or battery on a teacher.

7. The school administration shall permit a student who is the subject of a complaint and investigation to return to school if, at any point after an investigation and prior to a hearing, the threat is determined not to be credible, unless the student is charged with assault on a teacher or battery on a teacher. The school administrator shall notify any person who was a target of the threat at least two school days prior to the student's return and may conduct a search of the student or student property for weapons upon the student's return.

8. If the person is not a student, the individual shall not be permitted to be within five hundred feet of any school until deemed by a healthcare professional in a formal medical or mental health evaluation to not be a danger to self or others.

9. After such a determination, the individual shall not be permitted in a school unless the school administrator has been notified of the intent to visit the school and given consent. The administrator shall provide at least two school days' notice regarding the visit to any person in the school who was directly threatened by the individual. The school administrator may deny such an individual the right to visit the school.

J. ...

K. Bleeding control kits shall be placed in easily accessible locations in each school.

1. The principal shall ensure that designated employees are trained in the proper use of a bleeding control kit and in traumatic injury response.

2. The kits shall contain, at a minimum, a tourniquet, a hemostatic bleeding control dressing, an emergency trauma dressing, one pair of nitrile gloves, and an instruction card.

3. The kit shall be annually inspected, with materials replaced as needed according to product expiration dates.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6, 17:154.1, R.S. 29:726.5, et seq., R.S. 40:1137.3, and 17:416.16.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1262 (June 2005), amended LR 39:3258 (December 2013), LR 41:372 (February 2015), LR 45:36 (January 2019), LR 45:1746 (December 2019), LR 50:

Chapter 5. Personnel

§504. Teaching Authorization

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), (11), and (15), 17:7(6), 17:10, 17:22(6), 17:391.1-391.10, and 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 44:2132 (December 2018), repromulgated LR 45:38 (January 2019), repealed LR 50:

§511. Completion of Approved Numeracy Skills Course

A. The LDOE shall develop a list of approved professional development courses designed for educators that provide numeracy skills instruction and include information on instructing students regarding the vertical alignment of mathematical concepts and the blending of concepts, procedures, strategies, problem-solving, and disposition.

B. For the purposes of the Section, *teacher* means a public school fourth through eighth grade mathematics teacher.

C. Not later than the beginning of the 2025-2026 school year, each teacher must successfully complete at least one approved professional development course and provide documentation of successful completion of the course to the employing school. A teacher who provides documentation of successful completion of an approved professional development course within the five years prior to August 1, 2025, shall be considered in compliance with the provisions of this Paragraph.

D. Any teacher or administrator hired after July 31, 2025, must provide documentation to the employing school of successful completion of an approved professional development course within two years of the date of employment.

E. Beginning May 1, 2026, and annually thereafter, each LEA shall report to the LDOE the number and percentage of teachers who have successfully completed and approved professional development numeracy course. Reported data shall be included in LDOE school progress profiles.

F. Waivers to use professional development courses not included in the LDOE list of approved professional development courses must be submitted in writing to the department and are subject to approval by BESE.

G. The professional development course shall be presented during the educator's work day, but not during the statutorily guaranteed planning period and shall not extend the hours worked in a work day or the hours worked in a year.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:176 and R.S. 17:2119.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 50:

Chapter 9. Scheduling

§915. Student Activities

A. - G.3. ...

H. A public school that includes any grade levels of kindergarten through fifth shall provide at least fifteen minutes of daily recess to consist of supervised, unstructured free play.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:176 and R.S. 17:2119.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1272 (June 2005), amended LR 39:2205 (August 2013), LR 50:250 (February 2023), repromulgated LR 50:856 (May 2023), LR 50:

Chapter 11. Student Services

§1103. Compulsory Attendance

A. - J.8.c. ...

9. A student may be absent related to the student's mental health for up to three days in any school year, and such absences shall be excused when documentation/verification is submitted in accordance with the student handbook. The student shall be given the opportunity to make up missed work. Upon the return to school following the second day of mental health absence in any school year, the student shall be referred to the appropriate school support personnel for guidance in addressing the underlying issue, which may include referral to medical services outside of the school setting.

K. - N. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:112, R.S. 17:221.3-4, R.S. 17:226.1, and R.S. 17:233.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1273 (June 2005), amended LR 32:546 (April 2006), LR 32:1030 (June 2006), LR 33:2351 (November 2007), LR 35:641 (April 2009), LR 35:1097 (June 2009), LR 35:1475 (August 2009), LR 36:482 (March 2010), LR 36:1224 (June 2010), LR 37:1126 (April 2011), LR 37:2132 (July 2011), LR 38:1000 (April 2012), LR 38:1225 (May 2012), LR 38:1399 (June, 2012), LR 39:2205 (August 2013), LR 41:372 (February 2015), LR 41:2594 (December 2015), LR 42:1877 (November 2016), amended LR 48:32 (January 2022), LR 50:33 (January 2023), LR 50:

§1127. Preventive Programs

A. - D.7. ...

E. The governing authority of each public secondary school that issues student identification cards shall have printed on the cards and shall post on the school website the following information:

1. - 2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6, 17:13.1, R.S. 17:283, and R.S. 17:403.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1278 (June 2005), amended LR 39:2208 (August 2013), LR 45:1746 (December 2019), LR 50:

Chapter 13. Discipline

§1315. Corporal Punishment

A. The LEA shall adopt such rules and regulations to permit or prohibit any form of corporal punishment in the schools under its jurisdiction.

1. The use of any form of corporal punishment is prohibited without prior parental written consent.

2. Such consent applies only to the school year in which it is given.

B. - F. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:81.6, R.S. 17:223, and R.S. 17:416.1.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1284 (June 2005), amended LR 39:2212 (August 2013), LR 43:2483 (December 2017), LR 50:

Chapter 23. Curriculum and Instruction

Subchapter A. Standards and Curricula

§2305. Ancillary Areas of Instruction

A. - F.4.a. ...

5. The programs shall include providing the website and phone number of at least one national organization specializing in adolescent substance abuse. The resource information shall be posted on the LEA website.

G. - Q.1. ...

2. the relationship and the difference between mental health and physical health as well as brain health and emotional health;

3. identifying trauma and stress and the impact on mental and physical health;

4. resources and services available to assist people with mental health issues; and

5. the management of stress and anxiety.

R. Organ Donation. Each public high school shall provide information regarding organ donation to students. Such instruction shall be integrated into the curriculum of an existing required course using free resources from a Louisiana organ procurement organization or other free resources available from authoritative sources.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6, 17:81, 17:154, 17:261 et seq., 17:263, 17:270, 17:280, 17:281 et seq., 17:404, and 17:405 et seq., and 36 USC 106.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1288 (June 2005), amended LR 33:2353 (November 2007), LR 39:2214 (August 2013), LR 39:3259 (December 2013), LR 40:2531 (December 2014), LR 44:1443 (August 2018), LR 44:1868 (October 2018), LR 45:36 (January 2019), LR 45:1746 (December 2019), amended LR 48:33 (January 2022), LR 50:251 (February 2023), repromulgated LR 50:857 (May 2023), LR 50:

§2317. High Schools

A. - I.4. ...

5. Community service hours shall not count toward academic course work or graded work in any public school.

6. The community service performed shall not be related to political activities of any kind.

J. - K.2.b. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6, 17:7, 17:154, 17:264, 17:1944, 17:1945, and 17:4073.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1291 (June 2005), amended LR 36:1485 (July 2010), LR 37:1137 (April 2011), LR 38:754 (March 2012), LR 39:1038 (April 2013), LR 39:2216 (August 2013), LR 40:1328 (July 2014), repromulgated LR 40:1528 (August 2014), amended LR 40:2530 (December 2014), LR 45:37 (January 2019), LR 45:227 (February 2019), LR 46:1671 (December 2020), amended LR 48:33 (January 2022), LR 50:

Subchapter B. Academic Programs of Study

§2367. Religious Studies

A. ...

B. Each LEA may offer an elective high school course in the history and literature of the Bible.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:7, R.S. 17:282, and R.S. 17:24.4.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1298 (June 2005), amended LR 37:2134 (July 2011), LR 39:2221 (August 2013), LR 50:

Part CXXXIX. Bulletin 126—Charter Schools

Chapter 40. Charter School Autonomy

§4003. Applicability of State Laws

A. - A.45. ...

46. organ donation instruction, R.S. 17:280.2.

47. elective course on the history and literature of the Bible, R.S. 17:282.

48. written policies regarding carpool and bus line procedures in accordance with LAC 28:CXIII.903. (*Bulletin 119*) and R.S. 17:81.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10) and R.S. 17:3996.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 44:246 (February 2018), amended LR 48:1269 (May 2022), LR 50:

Part CLVII. Bulletin 135—Health and Safety

Chapter 5. Injury Management Program Rules for

Serious Sports Injuries

§509. Automated External Defibrillators (AED)

A. Each elementary, middle, and secondary school shall have an AED on its premises in an easily accessible location.

B. Each elementary, middle, and secondary school shall have a cardiac emergency response plan that establishes the specific steps to reduce death from cardiac arrest. The plan shall include at a minimum:

1. list of cardiac emergency response team;
2. procedures for activating the team in response to a sudden cardiac arrest;
3. placement and maintenance of AED; and
4. staff training.

C. Any elementary, middle, and secondary school that sponsors an interscholastic athletic event shall have an AED, a written cardiac emergency response plan, and a trained AED user who is also trained in first-aid and CPR on-site at the event at all times.

D. Provisions of the plan and appropriate training shall be in accordance with Louisiana Department of Health, LAC 48:I.Chapter 61.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1137.3.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 50:

Family Impact Statement

In accordance with section 953 and 974 of title 49 of the Louisiana Revised Statutes, there is hereby submitted a Family Impact Statement on rules proposed for adoption, repeal, or amendment. All Family Impact Statements will be kept on file in the state board office which has adopted, amended, or repealed rules in accordance with the applicable provisions of the law relating to public records.

1. Will the proposed Rule affect the stability of the family? No.

2. Will the proposed Rule affect the authority and rights of parents regarding the education and supervision of their children? No.

3. Will the proposed Rule affect the functioning of the family? No.

4. Will the proposed Rule affect family earnings and family budget? No.

5. Will the proposed Rule affect the behavior and personal responsibility of children? No.

6. Is the family or a local government able to perform the function as contained in the proposed Rule? Yes.

Poverty Impact Statement

In accordance with section 973 of title 49 of the Louisiana Revised Statutes, there is hereby submitted a Poverty Impact Statement on rules proposed for adoption, amendment, or repeal. All Poverty Impact Statements will be in writing and kept on file in the state agency which has adopted, amended, or repealed rules in accordance with the applicable provisions of the law relating to public records. For the purposes of this section, the word “poverty” means living at or below 100 percent of the federal poverty line.

1. Will the proposed Rule affect the household income, assets, and financial authority? No.

2. Will the proposed Rule affect early childhood development and preschool through postsecondary education development? No.

3. Will the proposed Rule affect employment and workforce development? No.

4. Will the proposed Rule affect taxes and tax credits? No.

5. Will the proposed Rule affect child and dependent care, housing, health care, nutrition, transportation, and utilities assistance? No.

Small Business Analysis

The impact of the proposed Rule 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 rule that will accomplish the objectives of applicable statutes while minimizing the adverse impact of the proposed rule on small businesses.

Provider Impact Statement

The proposed Rule should not have any known or foreseeable impact on providers as defined by HCR 170 of the 2014 Regular Legislative Session. In particular, there should be no known or foreseeable effect on:

1. the staffing level requirements or qualifications required to provide the same level of service;

2. the cost to the providers to provide the same level of service; or

3. the ability of the provider to provide the same level of service.

Public Comments

Interested persons may submit written comments via the U.S. Mail until noon, November 9, 2023, to Shan N. Davis, Executive Director, Board of Elementary and Secondary Education, Box 94064, Capitol Station, Baton Rouge, LA 70804-9064. Written comments may also be hand delivered to Shan Davis, Executive Director, Board of Elementary and Secondary Education, Suite 5-190, 1201 North Third Street, Baton Rouge, LA 70802 and must be date stamped by the

BESE office on the date received. Public comments must be dated and include the original signature of the person submitting the comments.

Shan N. Davis
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: School Administration and Safety**

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

There are no anticipated implementation costs or savings to state or local governmental units due to the proposed rule revisions to LAC 28:LXXIX. Bulletin 741(Nonpublic)—Louisiana Handbook for Nonpublic School Administrators. The proposed rule revisions set forth additional requirements regarding school accreditation, suicide prevention, transportation, and the repeal of teaching authorization requirements.

Much of the proposed rule revision to LAC 28:CV. Bulletin 741—Louisiana Handbook for School Administrators is not projected to result in costs or savings to state or local governmental units. There will be a cost associated with the numeracy professional development course, which is expected to be funded with \$897,870 in ESSER III-Math Refresh Initiative funding. Local education agencies are not anticipated to experience a cost associated with this training, as it will be hosted on the Louisiana Department of Education (LDOE) professional development platform and available free of charge. Display of the national motto may result in limited costs to schools, although the Act also allows schools to accept donated displays or funds to purchase such displays. Further revisions set forth requirements regarding implementation of crisis management and response plans, carpool and bus line procedures, recess time requirements, student absences regarding mental health, restrictions on corporal punishment, instruction on organ donation using free resources, updates to the community service diploma endorsement, and inclusion of a Bible literature elective course. Additionally, the aforementioned revisions repeal teaching authorization requirements.

There are no anticipated implementation costs or savings to state or local governmental units due to the proposed rule revisions to LAC 28:CXIII. Bulletin 119—Louisiana School Transportation Specifications and Procedures. The proposed rule revisions implement additional requirements regarding the safe loading and unloading of students from buses and during carpool in elementary schools.

The proposed rule revisions to LAC 28:CLVII. Bulletin 135—Health and Safety revisions require that schools have an Automated External Defibrillator (AED) on the premises and at athletic events and set forth the requirements regarding implementation of cardiac emergency response plans. Schools that do not already have an AED will need to purchase one. These devices are on state contract at approximately \$1,600 per unit. The legislature appropriated \$1.5 M in Act 447 of the 2023 Regular Session to fund the purchase of these devices.

There are no anticipated implementation costs or savings to state or local governmental units due to the proposed rule

revisions to LAC 28:CXXXIX. Bulletin 126—Charter Schools. The proposed rule revisions establish the applicability of state laws to charter schools regarding instruction on organ donation, Bible literature elective course, and bus and carpool safety.

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

The proposed rule revisions will not have a determinable effect on revenue collections of state or local governmental units.

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

Organ Donation - Public high schools will need to identify free organ donation resources to incorporate into an existing course. The additional workload is expected to be minimal.

Numeracy Professional Development – The required numeracy course will be available for the 2024-2025 school year and will take approximately 40-50 hours to complete. Language in Act 260 requires that completion of the training not extend the teacher’s work day or the number of hours to be worked in a year. LDOE will create and provide the training, which will be offered at no cost to educators.

National Motto – The cost of printing and framing “In God We Trust” displays according to the specifications in the Act may be defrayed through donated funds or displays.

Student Behavior, Discipline, and Mental Health – Additional workload may be experienced by referral of students to the appropriate school personnel to provide guidance with addressing the underlying issue after two absences due to mental health. Additional instructional resources may need to be located or developed to include stress management and anxiety within age-appropriate mental health instruction.

Threats of Terrorism and Violence; Act 334 – School Safety Act – Schools and LEAs will need to make adjustments to the crisis management and response plan during the annual review to align with requirements regarding the reporting of, investigation of, and response to threats of violence or terrorism, as well as with the requirements of the School Safety Act. Schools may also need to assemble a Stop the Bleed kit. Free resources to support training for the kits are available online.

Automated External Defibrillator (AED) – Schools will need to create a cardiac emergency response plan and acquire an AED if one is not currently available at the school. This may also require training for staff members designated to support the use of the AED.

Bus/Carpool - Requires each public school governing authority to establish policies and procedures for carpool and bus lines at any school that includes kindergarten through fifth grades. Signage may constitute a minimal local cost and/or effort, and additional personnel may be needed to assist younger students with safe loading and unloading.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule revisions are not anticipated to have an effect on competition and employment.

Beth Scioneaux
Deputy Superintendent
2310#029

Patrice Thomas
Deputy Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

Board of Elementary and Secondary Education

Teacher Certification and Preparation

(LAC 28:XLV.743 and 745; CXXXI. 103, 303, 507, 509, 511, 515, 519, 525, 527, 531, 535, 536, 1301, 1305, 1307, 1309, 1311, 1323, 1325, 1327, 1329, 1331, 1701, and 1909)

In accordance with the provisions of R.S. 17:6(A)(10) and the Administrative Procedure Act (APA), R.S. 49:953(B)(1) et seq., the Board of Elementary and Secondary Education proposes to amend LAC 28:XLV. *Bulletin 996—Standards for Approval of Teacher and/or Educational Leader Preparation Programs* and LAC 28:CXXXI. *Bulletin 746—Louisiana Standards for State Certification of School Personnel*. The aforementioned revisions align certification policy with legislation enacted by the 2022 and 2023 Regular Legislative Sessions. Acts 63, 371, and 392 require updates that include educator evaluations, military and out-of-state reciprocity, Teacher Certification Appeals Council appointing authority, literacy courses and training, and grade point average for certification and for entry to teacher preparation programs. Act 448 of the 2022 Regular Legislative Session requires certain elementary teacher candidates to pass an assessment including foundational literacy skills. Further revisions update required examination titles and identification numbers.

Title 28

EDUCATION

Part XLV. Bulletin 996—Standards for Approval of Teacher and/or Educational Leader Preparation Programs

Chapter 7. Louisiana State Standards for Educator Preparation Programs

Subchapter C. Teacher Preparation Programs

§743. Minimum Requirements for Traditional Teacher Preparation Programs

A. A traditional teacher preparation program is a baccalaureate degree program that includes a minimum of 120 credit hours of coursework and required practice experiences. Beginning with the 2024-2025 school year, an approved teacher education program shall be no more than 120 credit hours unless designated by the Board of Regents as dual degrees or dual certifications. Beginning September 1, 2024, a portion of the total required credit or contact hours must include the minimum number of hours in the teaching of reading and literacy as follows:

1. for certification in Birth-K, PK-3 and 1-5—9 credit hours;
 - a. The instruction must:
 - i. - iii. ...
2. for certification in middle grades 4-8—6 credit hours;
3. for certification in secondary 6-12 or all-level K-12—3 credit hours; and
4. for special education areas (early interventionist, hearing impaired, significant disabilities, visually impaired, or mild/moderate special education 1-5, 4-8, or 6-12)—9 credit hours.
5. - 5.c. ...

6. Beginning January 1, 2024, an applicant for initial certification in kindergarten through third grade shall pass the BESE-approved Teaching of Reading: Elementary or Teaching of Reading: Elementary Subtest exam in accordance with LAC 28:CXXXI.303. (*Bulletin 746*). Candidates already enrolled in the year-long residency and holding the R credential prior to January 1, 2025, are not subject to this provision.

B. - E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), (11), and (15), 17:7(6), 17:10, 17:22(6), 17:391.1-391.10, and 17:411, and 17:7.2.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 43:1330 (July 2017), amended LR 43:2492 (December 2017), LR 45:229 (February 2019), LR 48:1274 (May 2022), LR 48:1758 (July 2022), LR 50:41 (January 2023), LR 50:246 (February 2023), repromulgated LR 50:851 (May 2023), LR 50:

§745. Minimum Requirements for Alternate Teacher Preparation Programs

A. - A.3. ...

B. Beginning September 1, 2024, a portion of the total required credit or contact hours for all alternate teacher preparation programs must include the minimum number of hours in the teaching of reading and literacy as follows:

1. for certification in PK-3 and 1-5—9 credit hours or 135 contact hours;
 - a. The instruction must:
 - i. - iii. ...
2. for certification in middle grades 4-8—6 credit hours or 90 contact hours;
3. for certification in secondary 6-12 or all-level K-12 - 3 credit hours or 45 contact hours; and
4. for special education areas (early interventionist, hearing impaired, significant disabilities, visually impaired, or mild/moderate special education 1-5, 4-8, or 6-12)—9 credit hours or 135 contact hours.
5. - 5.c....
6. Beginning January 1, 2024, an applicant for initial certification in kindergarten through third grade shall pass the BESE-approved Teaching of Reading: Elementary or Teaching of Reading: Elementary Subtest exam in accordance with LAC 28:CXXXI.303. (*Bulletin 746*). Candidates already enrolled in the year-long residency and holding the R credential prior to January 1, 2025, are not subject to this provision.

C. - F.3. ...

4. Beginning June 14, 2023, an applicant who has not attained a 2.20 GPA may be issued certification if the following requirements are met in an alternate teacher preparation program:

- a. If the program awards credit hours, the applicant shall achieve a minimum GPA of 3.00 on a 4.00 point scale in the alternate teacher preparation program courses by the end of the first 12 credit hours and successfully complete the program with a minimum of a 2.5 GPA.
- b. If the program does not award credit hours, the applicant shall demonstrate mastery of competencies as required by the program and by the school system in which the applicant completes required clinical practice.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), (11), and (15), 17:7(6), 17:10, 17:22(6), 17:391.1-391.10, and 17:411; and 17:7.2.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 43:1331 (July 2017), amended LR 43:2492 (December 2017), LR 45:1751 (December 2019), LR 46:324 (March 2020), LR: 48:1274 (May 2022), LR 48:1759 (July 2022), LR 50:41 (January 2023), LR 50:246 (February 2023), LR 50:256 (February 2023), repromulgated LR 50:852 (May 2023), LR 50:

Part CXXXI. Bulletin 746—Louisiana Standards for State Certification of School Personnel

Chapter 1. Introduction

§103. General Provisions

A. Effectiveness for Teachers. Beginning September 1, 2023, for renewal or advancement of teaching certification as required in individual sections of this Part and the standards of effectiveness in accordance with LAC 28:CXLVII (*Bulletin 130*), effectiveness may be met for the specified number of years in the following manner:

1. A teacher serving in a nonpublic school setting must earn the specified number of effective ratings per local personnel evaluations.

2. A teacher serving in a public school setting is required to meet the standards of effectiveness in accordance with LAC 28:CXLVII (*Bulletin 130*) Chapter 3.

3. A teacher providing instruction in a public school setting, not employed by but contracted to the public school with a BESE-approved company, must earn effective ratings per employer personnel evaluations.

4. Educators serving in multiple settings may be credited with evaluations appropriate to the employment setting for each year.

2. All-Level K-12 Certification

5. Any out-of-state experience must be verified as successful by the out-of-state employing authority or SEA.

B. Effectiveness for Leaders. Beginning September 1, 2023, for renewal or advancement of leadership certification as required in individual sections of this Part and the standards of effectiveness in accordance with LAC 28:CXLVII (*Bulletin 130*), effectiveness may be met for the specified number of years in the following manner:

1. Individuals employed in a leadership capacity at the school level in the public school setting must meet the standards of effectiveness in accordance with LAC 28:CXLVII (*Bulletin 130*) Chapter 3.

2. Individuals employed in a leadership capacity at the district level must earn effective ratings per local personnel evaluations.

3. Individuals employed in a leadership capacity in a nonpublic setting must earn effective ratings per local personnel evaluations.

4. Any out-of-state experience must be verified as successful by the out-of-state employing authority or SEA.

5. Educational leaders serving in multiple settings may be credited with evaluations appropriate to the setting for each year.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:7(6), 17:10, 17:8.3 and 8.4, and 17:3902

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 50:

Chapter 3. Initial Teacher Certification
Subchapter B. Testing Required for Certification
§303. Certification Exams and Scores

A. - C.1. ...

All-Level K-12 Certification Areas							
Subject Area	Praxis Test	Score	PLT K-6		PLT 5-9		PLT 7-12
Grades K-12 Art	Art: Content Knowledge (0134 or 5134)	159	160	or	160	or	157
Grades K-12 Dance or Theater	None Available. For initial teacher certification, 30 semester hours in the content area is required in lieu of an exam.	---	160		160	or	157

D. Special Education Areas

Area	Content Exam	Score	Pedagogy Requirement	Score
All Special Education Area(s)				
Early Interventionist	Prior to 9/1/15: Elementary Content Knowledge prior to 9/1/15 (0014 or 5014)	150	Effective 1/1/12: -12/31/13 Special Education: Core Knowledge and Applications (0354 or 5354)	145
	Effective 9/1/15 to 8/31/17 Elementary Education: Content Knowledge (5018)	163	AND Principles of Learning and Teaching: Early Childhood (0621 or 5621)	157
	OR Elementary Education: Multiple Subjects (5001)		Effective 1/1/14-8/31/2023: Special Education: Early Childhood (0691 or 5691)	159
	● Reading/Language Arts (5002)	157	AND	
	● Mathematics (5003)	157	Principles of Learning and Teaching: Early Childhood (0621 or 5621)	157
	● Social Studies (5004)	155	Effective 9/1/2022: Special Education: Early Childhood/Early Intervention (5692)	159
	● Science (5005)	159	AND	
	Mandatory 9/1/17 Elementary Education: Multiple Subjects (5001)		Principles of Learning and Teaching: Early Childhood (0621 or 5621)	157
● Reading/Language Arts (5002)	157			
● Mathematics (5003)	157			
● Social Studies (5004)	155			
● Science (5005)	159			

Area	Content Exam	Score	Pedagogy Requirement	Score
Deaf and Hard of Hearing	Prior to 9/1/15: Elementary Content Knowledge (0014 or 5014)		Effective 11/1/11 – 12/31/13 Special Education: Core Knowledge and Applications (0354 or 5354)	145
	Effective 9/1/15 to 8/31/17: Elementary Education: Content Knowledge (5018) OR Elementary Education: Multiple Subjects (5001)		AND Education of Deaf and Hard of Hearing Students (0271)	160
	<ul style="list-style-type: none"> • Reading/Language Arts(5002) • Mathematics (5003) • Social Studies (5004) • Science (5005) 	150 163 157 157 155	Effective 1/1/14 – 8/31/24 Special Education: Core Knowledge and Applications (0354 or 5354)	145
	Mandatory 9/1/17: Elementary Education: Multiple Subjects (5001)		AND Special Education: Education of Deaf and Hard of Hearing Students (0272 or 5272)	160
	<ul style="list-style-type: none"> • Reading/Language Arts(5002) • Mathematics (5003) • Social Studies (5004) • Science (5005) 	159 157 157 155 159	Effective 9/1/23 Special Education: Foundational Knowledge (5355)	145
Mild to Moderate Disabilities	ALL Candidates must pass a content area exam appropriate to certification level 1-5, 4-8, 6-12 such as elementary, or core subject-specific exams for middle or secondary grades.		Effective 9/1/11-8/31/24 Special Education: Core Knowledge and Mild to Moderate Applications (0543 or 5543)	153
			AND PLT specific to grade level (K-6, 5-9, or 7-12) Effective 9/1/23 Special Education: Foundational Knowledge (5355) AND PLT specific to grade level (K-6, 5-9, or 7-12)	145
Significant Disabilities	Elementary Content Knowledge prior to 9/1/15 (0014 or 5014)	150	Effective 9/1/11 – 8/31/24 Special Education: Core Knowledge and Severe to Profound Applications (0545 or 5545)	153
	Effective 9/1/15 to 8/31/17 Elementary Education: Content Knowledge (5018) OR Elementary Education: Multiple Subjects (5001)			Effective 9/1/23 Special Education: Severe to Profound (5547)
	<ul style="list-style-type: none"> • Reading/Language Arts(5002) • Mathematics (5003) • Social Studies (5004) • Science (5005) 	163 157 157 155 159		
	Mandatory 9/1/17 Elementary Education: Multiple Subjects (5001)			
	<ul style="list-style-type: none"> • Reading/Language Arts(5002) • Mathematics (5003) • Social Studies (5004) • Science (5005) 	157 157 155 159		
Visual Impairments/Blind	Elementary Content Knowledge prior to 9/1/15 (0014 or 5014)	150	Effective 11/1/11 – 12/31/13 Special Education: Core Content Knowledge and Applications (0354 or 5354)	145
	Effective 9/1/15 to 8/31/17 Elementary Education: Content Knowledge (5018) OR Elementary Education: Multiple Subjects (5001)	163	Effective 1/1/14 – 8/31/24: Special Education: Core Content Knowledge and Applications (0354 or 5354)	145
	<ul style="list-style-type: none"> • Reading/Language Arts(5002) • Mathematics (5003) • Social Studies (5004) • Science (5005) 	157 157 155 159	AND Special Education: Teaching Students with Visual Impairments (0282 or 5282)	163
	Mandatory 9/1/17 Elementary Education: Multiple Subjects (5001)		Effective 9/1/23 Special Education: Foundational Knowledge (5355)	145
	<ul style="list-style-type: none"> • Reading/Language Arts(5002) • Mathematics (5003) • Social Studies (5004) • Science (5005) 	157 157 155 159	AND Special Education: Teaching Students with Visual Impairments (0282 or 5282)	163

E. Administrative and Instructional Support Areas

Certification Area	Name of Test	Area Test Score
Educational Leader—Level 1	School Leaders Licensure Assessment (1011 or 6011)	166 (Effective 9/1/09-7/31/20)
	School Leaders Licensure Assessment (6990)	151 (Effective 9/1/19)
	Louisiana Leadership Assessment Series	“Demonstrated” (for at least 9 assessments within the series) Effective April 1, 2020

Educational Leader—Level 3	School Superintendent Assessment (6021)	160 (Effective until 7/31/20)
	School Superintendent Assessment (6991)	162 Effective 9/1/19
School Counselor K-12	Effective 7/1/15-8/31/23 Professional School Counselor (0421 or 5421)	156
	Effective 9/1/22 School Counselor (5422)	159
School Librarian	Effective 9/1/12-8/31/23 Library Media Specialist (0311 or 5311)	136
	Effective 9/1/22 School Librarian (5312)	154

F. Reading Exams

Name of Test	Area Test Score
Teaching Reading Exam (0204 or 5204) Effective 9/1/2011 – 7/31/2020	157
Teaching Reading: K-12 Exam (0206 or 5206) Effective 9/1/2019	156
Teaching Reading: Elementary Exam (5205) Effective 1/1/2023	159

F.1. - G. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6, R.S. 17:8.1-8.5, and R.S. 17:7(6).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:1797 (October 2006), amended LR 37:558 (February 2011), LR 38:1951 (August 2012), LR 46:01375 (October 2020), amended LR 48:416 (March 2022), repromulgated LR 48:1018 (April 2022), LR 48:2099 (August 2022), LR 48:2554 (October 2022), LR 48:2730 (November 2022), LR 50:36 (January 2023), LR 50:

Chapter 5. Teaching Credentials, Licenses and Certifications

Subchapter A. Standard Teaching Certificates

§507. Professional Level Certificates

A. - B.4. ...

5. Grade Point Average Requirements:

a. minimum 2.20 undergraduate grade point average (GPA) on a 4.00 scale for entry into a teacher preparation program;

b. if an applicant does not meet the GPA requirement, certification may be issued if the following requirements are met:

i. if the program awards credit hours, the applicant shall achieve a minimum GPA of 3.00 on a 4.00 scale in the alternate teacher preparation courses by the end of the first 12 credit hours and successfully complete the program.

ii. if the program does not award credit hours, the applicant shall demonstrate mastery of competencies as required by the program administrator and by the school system in which the applicant completes required clinical practice; and

c. minimum 2.50 GPA on a 4.00 scale upon completion of teacher preparation program, or if the program does not award credit hours, the applicant shall demonstrate mastery of competencies as required by the program administrator and by the school system in which the applicant completes required clinical practice;

d. satisfactorily complete all program requirements as set forth by BESE, including any requirements for clinical practice, at graduation or program completion;

e. an applicant who does not have the required program GPA shall demonstrate mastery of competencies as required by the program and by the school system in which the applicant completes required clinical practice and may be issued a TEP.

6. - 8.e. ...

f. Repealed.

9. Beginning September 1, 2024, completers must earn the required number of semester hours or contact hour equivalent in the teaching of reading and literacy in alignment with the science of reading competencies for certification.

a. Birth-K, PK-3, Grades 1-5: 9 semester hours.

b. Middle Grades 4-6: 6 semester hours.

c. Secondary 6-12 content areas, all-level K-12 areas: 3 semester hours.

d. General and Special Education Integrated to Merged (Grades 1-5, 4-8, or 6-12), Early Interventionist, Hearing Impaired, Significant Disabilities, and Visually Impaired: 9 semester hours.

10. Beginning January 1, 2024, an applicant for initial certification in kindergarten through third grade shall pass the BESE-approved Teaching of Reading: Elementary or Teaching of Reading: Elementary Subtest exam in accordance with §303 of this Part. Candidates already enrolled in the year-long residency and holding either the PL or R credential prior to January 1, 2025, are not subject to this provision.

11. Beginning September 1, 2028, literacy requirements include a minimum of three credit hours or contact hour equivalent regarding teaching students with dyslexia.

C. Out-of-state (OS) Graduate Eligibility. Level 1 professional certificate requires a minimum of a baccalaureate degree from a college or university accredited in accordance with 34 CFR 602. Credentials awarded from an institution outside of the United States and not accredited by one of the U.S. accrediting agencies may be submitted to a credentialing agency that follows the standards of the American Association of Collegiate Registrars and Admissions Officers (AACRAO) for evaluation with the original course-by-course evaluation including a statement verifying the comparability of the baccalaureate or graduate degree in the field of education; and

1. - 2. ...

3. complete student teaching, internship, residency, or year(s) of successful teaching experience as required by teacher preparation program provider or SEA; and

4. ...

5. An applicant who has not taught successfully for at least one year in the five years prior to date of application may be issued a one-year non-renewable OS1 certificate during which time the holder must earn an effective rating in accordance with §103 of this Part for issuance of a three-year non-renewable OS certificate.

6. ...

7. Three years of successful teaching experience in another state, prior to first employment in or licensure application in Louisiana, as verified by the employing authority or SEA, fulfills exam requirements.

8. ...

9. Active military or military spouse applicants holding a standard professional certificate in another state, serving in Louisiana on a five-year OS, must earn effective ratings in accordance with §103 of this Part for at least three years during the five-year OS period to advance to a higher level professional certificate.

D. Foreign Applicant Eligibility. OS and Level 1 professional certificates require a minimum of a

baccalaureate degree from a college or university accredited in accordance with 34 CFR 602. Credentials awarded from an institution outside of the United States and not accredited by one of the U.S. accrediting agencies may be submitted to a credentialing agency that follows the standards of the American Association of Collegiate Registrars and Admissions Officers (AACRAO) for evaluation with the original course-by-course evaluation including a statement verifying the comparability of the baccalaureate or graduate degree in the field of education.

1. - 2. ...

E. Level 2 Professional Certificate eligibility requirements:

1. ...

2. earn effective ratings for three years in accordance with §103 of this Part; and

3. accrue three years of teaching experience in an approved educational setting.

4. - F.2. ...

3. have five years of teaching experience in an approved educational setting with any out-of-state experience verified as successful by the out-of-state employing authority or SEA.

4. If the level 3 certificate is the initial certificate, a state-approved teacher preparation program provider must submit the request.

E.5. - G.1. ...

2. Level 2 and level 3 certificates are valid for five years initially and may be renewed thereafter for a period of five years at the request of a Louisiana employing authority, contingent upon candidates being found effective in accordance with §103 of this Part for at least three years during the five-year initial or renewal period.

H. Temporary Employment Permit (TEP) Applicant Eligibility. Level 1 professional certificates require a minimum of a baccalaureate degree from a college or university accredited in accordance with 34 CFR 602. The Louisiana employing authority must submit the application recommending certification to the LDOE including a signed affidavit verifying there is no other available applicant meeting certification requirements for the specific teaching position.

1. Candidates serving on a TEP must successfully meet the standards of effectiveness by earning highly effective or effective proficient for five years in accordance with LAC 28:CXLVII (*Bulletin 130*) while serving on the TEP.

a. - b. Repealed.

2. Upon successful passage of required examinations, a candidate serving on a TEP Option 1 is eligible for a Level 1 teaching certification.

a. - c. Repealed.

3. The candidate must participate in a school-based mentor program for at least three years.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6, 17:7(6), and R.S. 17:8.1. - 8.3.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:1813 (October 2006), amended LR 35:2752 (December 2009), LR 36:2843 (December 2010), LR 38:2366 (September 2012), LR 40:1331 (July 2014), LR 46:1381 (October 2020), amended, LR 48:430 (March 2022), LR 48:1273 (May 2022), LR 48:2554 (October 2022), LR 50:37 (January 2023), LR 50:

§509. Type C Certificates

A. - D.1.a. ...

b. have three years of successful evaluations;

D.1.c. - E.1. ...

2. A lapsed certificate may be reactivated upon request of the Louisiana employing authority at the level attained prior to the five-year period of disuse. During the reactivated period the holder must earn effective ratings for at least three years during the five-year reactivation period. Upon earning three effective evaluations, the lifetime validity of the certificate will be reinstated. The request for reinstatement must be submitted directly to the LDOE by the Louisiana employing authority.

3. Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:7(6), R.S. 17:10, and R.S. 17:8.3.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:1814 (October 2006), amended LR 33:2356 (November 2007), LR 35:2753 (December 2009), LR 36:2000 (September 2010), LR 38:3137 (December 2012), LR 40:1331 (July 2014), LR 45:1460 (October 2019), LR 46:1381 (October 2020), LR 48:431 (March 2022), repromulgated LR 48:1035 (April 2022), LR 50:

§511. Out-of-State (OS) Certificate

A. - B.3. ...

4. complete student teaching or internship in a certification area, or in lieu of student teaching or internship have the years of successful teaching experience as required by the teacher preparation program provider or SEA;

5. a candidate who has not taught successfully for at least one year in the five years prior to the date of application may be issued a one-year non-renewable (OS1) certificate during which time the holder must be found effective in accordance with §103 of this Part for the issuance of a three-year non-renewable (OS) certificate; and

6. beginning January 1, 2017, the LDOE will issue a letter of eligibility for an OS certificate to requesting teachers who are not yet employed in Louisiana. Once employed as a teacher of record in an approved Louisiana school system, the OS certificate will be issued at the request of the Louisiana employing authority.

7. Active military or military spouse out-of-state applicants stationed in Louisiana who meet the above criteria will be issued eligibility for a five-year certificate. Notification of eligibility will be issued no later than 20 days from the receipt of a complete application. Once employed in Louisiana, a five-year OS will be issued at the request of the Louisiana employing authority.

C. - C.2. ...

3. Three years of successful teaching experience in another state prior to first employment or licensure application in Louisiana, as verified by the employing authority or SEA fulfills exam requirements. For active military or military spouses, any three years of successful teaching experience in another state, as verified by the employing authority or SEA, may fulfill exam requirements.

4. ...

5. Active military or military spouse applicants serving in Louisiana and holding a standard professional certificate in another state, not meeting exam exclusion, on a five-year OS must earn effective ratings, in accordance with §103 of this Part, for at least three years during the five-year

OS period to advance to a higher level professional certificate.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6, R.S. 17:7(6) and R.S. 17:8.1 – 8.2.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:1814 (October 2006), amended LR 35:2754 (December 2009), LR 36:2001 (September 2010), LR 40:1332 (July 2014), LR 48:432 (March 2022), repromulgated LR 48:1036 (April 2022), LR 50:39 (January 2023), LR 50:

§515. Practitioner Licenses

A. Issuance and Renewals

1. Practitioner licenses (PL) 1 and 2 may be issued for one year, renewed annually, and held for a maximum of three years while the holder completes an alternate program. Upon completion of the three years of employment on a PL certificate, the holder must fulfill guidelines for a level 1 or higher-level certificate for continued employment in a Louisiana school system.

2. The practitioner license 3 may be issued for one year, renewed annually, and held for a maximum of four years while the holder completes an alternate program. Upon completion of the four years of employment on a PL certificate, the holder must fulfill guidelines for a level 1 or higher-level certificate for continued employment in a Louisiana school system.

3. - 4.a. ...

b. 2.20 or higher undergraduate GPA on a 4.00 scale to enter a teacher preparation program or documentation of conditional acceptance into a teacher preparation program; and

c. passing scores on certification content area exam requirements in accordance with §303 of this Part, or if no examination has been adopted for Louisiana in the certification area, candidates must present a minimum of 30 semester hours of coursework specific to the content area for admission to the program.

d. Special education mild/moderate certification candidates must qualify for admission to alternate programs by passing a Praxis content area exam, and secondary education candidates (grades 6-12) must pass a Praxis core subject area exam, or if there is no content Praxis exam adopted by the State in the specific secondary core subject area, candidates must demonstrate content mastery by presenting 30 semester credit hours in the core subject area.

5. - 6.a. ...

7. - 7.e. Repealed.

8. The teacher must teach in the specific grade level and content area as designated on the practitioner license as outlined in LAC 28:XLV (*Bulletin 996*).

B. - D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:8.1 – 8.2. and R.S. 17:6, 17:7(6).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 48:433 (March 2022), repromulgated LR 48:1037 (April 2022), LR 48:2555 (October 2022), LR 50:39 (January 2023), LR 50:

§519. Standard Certificates for Teachers in Nonpublic Schools

A. A standard certificate with an asterisk (*) following the certificate type is issued to a teacher in a nonpublic school. If the teacher enters a public school system in Louisiana, the educator will be required to meet the standards of effectiveness pursuant to state law and in

accordance with LAC 28:CXLVII (*Bulletin 130*) for issuance or renewal of a level 2 or level 3 teaching certificate. Beginning September 1, 2023, asterisk certificates will no longer be issued.

B. Level 2* (2-asterisk) Certificate—valid for five years.

1. - 2. Repealed.

C. Level 3* (3-asterisk) Certificate—valid for five years.

1. - 2. Repealed.

3. Renewal Guidelines for Level 2* and Level 3* Certificates

a. A teacher must earn effective ratings for at least three years during the five-year initial or renewal period.

b. ...

D. Type B* (B-asterisk) Certificate is valid for life for continuous service, provided the holder does not allow any period of 5 or more consecutive years of disuse to accrue where not a regularly employed teacher for at least 1 semester, or 90 consecutive days, and/or certificate is not revoked by BESE.

1. - 2. Repealed.

3. The type B* certificate is valid for life of continuous service in an approved school setting, and if the teacher enters a Louisiana public school the requirement shall be to successfully meet the standards of effectiveness.

E. Type A* (A-asterisk) Certificate is valid for life for continuous service in an approved school setting, provided the holder does not allow any period of 5 or more consecutive years of disuse to accrue where not a regularly employed teacher for at least 1 semester, or 90 consecutive days, and/or the certificate is not revoked by BESE.

1. - 2. Repealed.

3. The type A* certificate is valid for life of continuous service in an approved school setting, and if the teacher enters a Louisiana public school the requirement shall be to successfully meet the standards of effectiveness.

F. - F.1. ...

2. A lapsed certificate may be reactivated upon request of the Louisiana employing authority at the level attained prior to the five-year period of disuse. During the reactivated period the holder must earn effective ratings for at least three years during the five-year reactivation period. Upon earning three effective evaluations, the lifetime validity of the certificate will be reinstated. The request for reinstatement must be submitted directly to the LDOE by the Louisiana employing authority.

3. Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6, R.S. 17:7(6) and R.S. 17:8.3.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 48:435 (March 2022), repromulgated LR 48:1038 (April 2022), LR 50:

Subchapter B. Nonstandard Teaching Credentials

§525. Introduction

A.1. There are five types of nonstandard teaching credentials issued in Louisiana:

a. - c. ...

d. nonpublic temporary certificate (T); and

e. resident teacher certificate (R).

f. Repealed.

2. ...

B. Repealed.

C. Medical Excuse and Exceptions. Exceptions to policy will be considered in the case of serious medical condition

or unavailability of required coursework or exams. When serious medical problems of the teacher or immediate family exist, a doctor statement is required. Also required is a letter of assurance from the teacher documenting that the unmet policy requirements will be completed within a specified time period, as determined by the LDOE. The final authority for approval and policy flexibility is at the discretion of the LDE in accordance with BESE policy.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 and R.S. 17:7(6).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 48:437 (March 2022), repromulgated LR 48:1040 (April 2022), LR 48:1749 (July 2022), LR 50:

§527. Temporary Authority to Teach (TAT)

A. - B.2. ...

3. The applicant must have at least a 2.20 undergraduate GPA. An applicant who does not meet the GPA requirement may be certified upon satisfactory completion of a personal interview by the employing school system.

C. - D.1.a. ...

b. evidence the applicant has met the standards of effectiveness in accordance with LAC 28:CXLVII (*Bulletin 130*);

c. - d. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6, 17:7(6), and R.S. 17:8.1.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 48:437 (March 2022), repromulgated LR 48:1041 (April 2022), LR 50:39 (January 2023), LR 50:

§531. Temporary Employment Permit (TEP)

A. Temporary Employment Permit (TEP) is issued for one year, renewable annually, and may be held a maximum of five years while the holder pursues standard certification via successful years of teaching or satisfaction of state exam requirements. Upon completion of the five years of employment on a TEP, for continued employment in a Louisiana school system, the holder must fulfill guidelines for a level 1 or higher-level certificate.

1. The Louisiana employing authority must submit to the LDOE:

a. the application recommending certification or requesting renewal; and

b. an affidavit signed by the local superintendent, or designee, attesting that after posting positions for which a TEP is issued, good faith efforts failed to recruit competent and suitable certified personnel.

2. For all teacher candidates serving on the TEP, the candidate must participate in a school-based mentoring program.

B. Eligibility Guidelines 1. Applicant meets all certification requirements with the exception of passing all exam requirements in accordance with §303 of this Part but scores within 10 percent of the score required for passage of exams. The BESE-approved teacher preparation provider must verify that all program requirements are met with the exception of exam(s).

1. - 4. Repealed.

C. Eligibility Guidelines 2. Applicant has not completed a teacher preparation program but holds a graduate degree

from a college or university accredited in accordance with 34 CFR 602 in the subject area for which employment is granted. The applicant must complete pre-service training prior to the first day as a teacher of record.

1. - 3. Repealed.

D. Eligibility Guidelines 3. Applicant has not completed a teacher preparation program but holds a bachelor's degree from a college or university accredited in accordance with 34 CFR 602 in the secondary subject area for which employment is granted and has a 2.5 cumulative undergraduate GPA or higher on a 4.00 scale.

1. The applicant must complete pre-service training prior to the first day as a teacher of record.

2. The applicant must pass the adopted content exam in alignment with the degree and the courses hired to teach prior to the first day as a teacher of record.

3. - 6. Repealed.

E. Eligibility Guidelines 4. Applicant has completed a BESE-approved teacher preparation program with a GPA lower than required but the program provider verifies that all other program requirements have been met.

F. Renewal Requirements. A TEP can be renewed up to four times upon verification of the following:

1. For a candidate issued the TEP via completion of a teacher preparation program but lacking passing scores on required exams, required exams are retaken twice within one year from the date the TEP was issued or renewed.

2. Standards of effectiveness are successfully met at the level of highly effective or effective proficient in accordance with LAC 28:CXLVII (*Bulletin 130*) during each year on the TEP.

3. The candidate must participate in a school-based mentoring program during each year of the TEP until the candidate has received three years of successful evaluations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6, R.S. 17:7(6), and R.S. 17:8.1 – 8.3.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 48:438 (March 2022), repromulgated LR 48:1041 (April 2022), LR 50:40 (January 2023), LR 50:

§535. Resident Teacher Certificate (R)

A. - G. ...

H. Holders of the resident teacher certificate may serve as a substitute teacher in the residency school system. Such service shall not impede residency performance or ability to successfully complete the preparation program.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6, 17:7(6), and R.S. 17:8.1.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 48:438 (March 2022), repromulgated LR 48:1042 (April 2022), LR 50:40 (January 2023), LR 50:

§536. Teaching Authorizations

A. A teaching authorization (TA) is a nonstandard credential that only indicates a cleared criminal background check and is neither the equivalent of a teaching certificate nor substantiation of enrollment in or completion of an educator preparation program.

B. Beginning June 14, 2023, TAs will no longer be issued.

C. - F. Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 and R.S. 17:7(6).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 48:1749 (July 2022), LR 50:

Chapter 13. Endorsements to Existing Certificates

§1301. Introduction

A. Endorsement areas are permanent credentials added to a teaching certificate. Upon completion of requirements for an additional area of certification, as outlined in this bulletin, the holder of a valid Louisiana teaching certificate may have the endorsement added. For endorsement purposes, the following apply.

1. A generalized reference to a Praxis exam means the applicable exam(s) in policy, with the established passing score(s) in accordance with §303 of this Part.

2. - 5. ...

6. Non-university private providers of teacher and/or educational leader preparation programs must submit proposals for approval by LDOE and BESE, in accordance with LAC 28:XLV (*Bulletin 996*) Chapter 3.

7. ...

8. General reading and literacy hours may be fulfilled with the indicated semester hours, equivalent contact hours, or passing the adopted Teaching of Reading exam in accordance with §303 of this Part. Successful completion of the BESE-approved literacy foundations training may be accepted for the number of hours approved per program.

B. - D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6, R.S. 17:7(6), and R.S. 17:8.1. – 8.2.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 33:2059 (October 2007), LR 48:454 (March 2022), repromulgated LR 48: 1062 (April 2022), LR 50:

Subchapter A. Regular Education Level and Area Endorsements

§1305. Requirements to add Birth to Kindergarten

A. Individuals holding a valid early childhood certificate for PK-K, PK-3, elementary certificate for grade levels 1-4, 1-5, 1-6, or 1-8, or early interventionist certificate must achieve the following:

1. earn a passing score for Praxis—principles of learning and teaching early childhood; or

2. 12 semester hours of combined early childhood and kindergarten coursework.

3. Individuals must complete nine semester hours in the teaching of reading and literacy, or other literacy options as outlined in §1301 of this Chapter.

B. Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6, R.S. 17:7(6), and R.S. 17:8.1. – 8.3.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 33:2060 (October 2007), amended LR 46:1385 (October 2020), amended LR 48:455 (March 2022), repromulgated LR 48:1063 (April 2022), LR 48:2555 (October 2022), LR 50:

§1307. Requirements to add Early Childhood (Grades PK-3)

A. Individuals holding a valid elementary certificate for grade levels 1-4, 1-5, 1-6, or 1-8 must achieve the following:

1. earn a passing score for Praxis—principles of learning and teaching early childhood; or

2. 12 semester hours of combined early childhood and kindergarten coursework.

3. Individuals must complete nine semester hours in the teaching of reading and literacy in alignment with the

literacy foundations competencies or other literacy options as outlined in §1301 of this Chapter.

4. Repealed.

B. Individuals holding a valid upper elementary or middle school certificate for grade levels 4-8, 5-8, or 6-8, secondary school certificate for grade levels 6-12, 7-12, or 9-12, special education certificate other than early interventionist, or an all-level K-12 certificate in the areas of art, dance, foreign language, health, physical education, health and physical education, theater, or music must achieve the following:

1. - 2. Repealed

3. for endorsements issued 9/1/17 and beyond, earn a passing score for Praxis elementary education: multiple subjects; and

4. earn a passing score for Praxis principles of learning and teaching early childhood or accumulate 12 credit hours of combined early childhood and kindergarten coursework; and

5. complete nine semester hours in the teaching of reading and literacy, or other literacy options as outlined in §1301 of this Chapter in alignment with the literacy foundations competencies.

6. Repealed.

C. Individuals holding a valid early interventionist certificate must achieve the following:

1. earn a passing score for Praxis—Elementary Education;

2. ...

3. complete nine semester hours in the teaching of reading and literacy, or other literacy options as outlined in §1301 of this Chapter in alignment with the literacy foundations competencies.

4. Repealed.

D. Individuals holding a valid birth to kindergarten certificate must achieve the following:

1. earn passing score for Praxis Elementary Education in accordance with §303 of this Part; and

2. complete nine semester hours in the teaching of reading and literacy, or other literacy options as outlined in §1301 of this Chapter in alignment with the literacy foundations competencies.

3. Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6, 17:7(6) and R.S. 17:8.1. – 8.3.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 48:455 (March 2022), repromulgated LR 48:1063 (April 2022), LR 48:2555 (October 2022), LR 50:

§1309. Requirements to add Elementary (Grades 1-5)

A. Individuals holding a valid early childhood certificate for PK-K or PK-3 must achieve the following:

1. earn a passing score for Praxis—Elementary Education in accordance with §303 of this Part;

2. ...

3. complete nine semester hours in the teaching of reading and literacy, or other literacy options as outlined in §1301 of this Chapter in alignment with the literacy foundations competencies.

4. Repealed.

B. Individuals holding a valid upper elementary or middle school certificate for grade levels 4-8, 5-8, and 6-8, secondary certificate grade levels 6-12, 7-12, or 9-12, special

education certificate, or all-level K-12 certificate for art, dance, foreign language, health, physical education, health and physical education, theater, or music must achieve the following:

1. earn passing score for Praxis—Elementary Education in accordance with §303 of this Part or accumulate 12 semester hours in each subject area of mathematics, science, ELA, and social studies;

2. – 2.d. Repealed.

3. ...

4. complete nine semester hours in the teaching of reading and literacy, or other literacy options as outlined in §1301 of this Chapter in alignment with the literacy foundations competencies.

5. Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6, R.S. 17:7(6), and R.S. 17:8.1. – 8.3.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 48:455 (March 2022), repromulgated LR 48:1064 (April 2022), LR 48:2555 (October 2022), LR 50:

§1311. Requirements to add Middle School (Grades 4-8) Specialty Area Endorsement for English, Mathematics, Science, or Social Studies

A. Individuals holding a valid OS, Type C, Level 1 or higher teaching certificate must achieve the following:

1. - 2. ...

3. complete six semester hours in the teaching of reading and literacy, or other literacy options as outlined in §1301 of this Chapter.

B. - B.3. Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6, R.S. 17:7(6), and R.S. 17:8.1. – 8.3.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 48:456 (March 2022), repromulgated LR 48:1064 (April 2022), LR 50:

Subchapter B. Special Education Level and Area Endorsements

§1323. Requirements to add Early Interventionist Birth to Five Years

A. Individuals holding a valid early childhood certificate for PK-K or PK-3, elementary certificate for grade levels 1-4, 1-5, 1-6, or 1-8, upper elementary or middle school certificate for grade levels 4-8, 5-8, or 6-8, secondary certificate for grade levels 6-12, 7-12, or 9-12, special education certificate, or an All-Level K-12 certificate in art, dance, foreign language, health, physical education, health and physical education, theater, or music must achieve the following:

1. earn a passing score for Praxis exams: Principles of Learning and Teaching; Early Childhood and Special Education: Early Childhood;

2. - 2.f. ...

3. complete nine semester hours in the teaching of reading and literacy, or other literacy options as outlined in §1301 of this Chapter in alignment with the literacy foundations competencies.

4. Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6, R.S. 17:7(6), and R.S. 17:8.1. – 8.3.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 48:457 (March 2022),

repromulgated LR 48:1066 (April 2022), LR 48:2556 (October 2022), LR 50:

§1325. Requirements to add Deaf or Hard of Hearing K-12

A. Individuals holding a valid early childhood certificate for PK-K or PK-3, elementary certificate for grade levels 1-4, 1-5, 1-6, or 1-8, upper elementary or middle school certificate for grade levels 4-8, 5-8, or 6-8, secondary certificate for grade levels 6-12, 7-12, or 9-12, special education certificate, or an All-Level K-12 certificate in art, dance, foreign language, health, physical education, health and physical education, theater, or music must earn the following:

1. 21 semester credit hours that pertain to children who are deaf or hard of hearing:

a. introduction to special education;

b. physiological, psychosocial, historical, sociological, and cultural aspects of deafness;

c. language development that includes linguistic principles and assessment strategies in language acquisitions for deaf and hard of hearing;

d. speech and speech reading;

e. educational audiology, auditory assistive devices and technology;

f. instructional strategies and curriculum development for deaf and hard of hearing students; and

g. communication methodology;

2. three semester hours of internship regarding students who are deaf or hard of hearing or three years of successful teaching experience with students who are deaf or hard of hearing verified in accordance with §103 of this Part;

3. Proficiency in signed, cued, or oral communication evidenced by one or more of the following means:

a. signed:

i. Intermediate on the Educational Sign Skills Evaluation: Teacher (ESSE:T);

ii. Advanced on the Signed Communication Proficiency Interview (SCPI); or

iii. Level III of the Educational Interpreter Performance Assessment;

b. cued—mini-proficiency, as measured on the Basic Cued Speech Proficiency Rating Test (BCSPR c1983, Beaupre);

c. oral—successfully passing an additional course in Methods in Oral/Auditory Education; and

4. Passing score for Praxis exams in accordance with §303 of this Part.

5. - 11. Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6, R.S. 17:7(6) and R.S. 17:8.1. – 8.3.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 48:457 (March 2022), repromulgated LR 48:1066 (April 2022), LR 50:

§1327. Requirements to add Mild/Moderate (1-5), (4-8), and (6-12)—Mandatory 7/1/2010

A. - A.1.f. ...

2. passing score for Praxis exams—Special Education: Core Knowledge and Mild to Moderate Applications or Special Education: Foundational Knowledge; and

3. complete six semester hours in the teaching of reading and literacy, or other literacy options as outlined in

§1301 of this Chapter in alignment with the literacy foundations competencies;

4. Repealed.

B. Mild/Moderate: 1-5. Individuals holding a valid upper elementary or middle school certificate grade levels 4-8, 5-8, or 6-8, secondary certificate grade levels 6-12, 7-12, or 9-12, all-level special education certificate in significant disabilities, visually impaired, or deaf or hard of hearing, or an all-level K-12 certificate in art, dance, foreign language, health, physical education, health and physical education, theater, or music must earn the following:

1. - 1.f. ...

2. passing score for Praxis exams in accordance with §303 of this Part; and

3. complete six semester hours in the teaching of reading and literacy, or other literacy options as outlined in §1301 of this Chapter in alignment with the literacy foundations competencies;

4. Repealed.

C. – C.2.a. ...

i. Special Education: Core Knowledge and Mild to Moderate Applications or Special Education: Foundational Knowledge;

a.ii. - b. ...

i. Special Education: Core Knowledge and Mild to Moderate Applications or Special Education: Foundational Knowledge;

ii. - iii. ...

3. complete nine semester hours in the teaching of reading and literacy, or other literacy options as outlined in §1301 of this Chapter in alignment with the literacy foundations competencies.

4. Repealed.

D. - D.2. ...

a. Mild/Moderate (4-8)—Special Education: Core Knowledge and Mild to Moderate Applications or Special Education: Foundational Knowledge;

b. Mild/Moderate (6-12):

i. Special Education: Core Knowledge and Mild to Moderate Applications or Special Education: Foundational Knowledge;

ii. - iii. ...

3. complete nine semester hours in the teaching of reading and literacy, or other literacy options as outlined in §1301 of this Chapter in alignment with the literacy foundations competencies;

4. Repealed.

E. - E.2.a. ...

i. Special Education: Core Knowledge and Mild to Moderate Applications or Special Education: Foundational Knowledge; and

ii. - iii. ...

b. Mild/Moderate (6-12)—Special Education: Core Knowledge and Mild to Moderate Applications or Special Education: Foundational Knowledge and Secondary Content Exam(s); and

3. complete nine semester hours in the teaching of reading and literacy, or other literacy options as outlined in §1301 of this Chapter in alignment with the literacy foundations competencies;

4. Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6, R.S. 17:7(6), and R.S. 17: 17:8.1. – 8.3.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 48:458 (March 2022), repromulgated LR 48:1066 (April 2022), LR 48:2556 (October 2022), LR 50:

§1329. Requirements to add Significant Disabilities 1-12

A. Individuals holding a valid early childhood certificate in grade levels PK-K or PK-3, elementary certificate in grade levels 1-4, 1-5, 1-6, or 1-8, upper elementary or middle school certificate in grade levels 4-8, 5-8, 6-8, secondary certificate in grade levels 6-12, 7-12, or 9-12, special education certificate, or All-Level K-12 certificate in art, dance, foreign language, health, physical education, health and physical education, theater, or music must earn the following:

1. - 1.g. ...

2. Three semester hours of internship of students with significant disabilities; or three years of successful teaching experience of students with significant disabilities verified in accordance with §103 of this Part; and

3. passing score for Praxis exams in accordance with §303 of this Part; and

4. complete nine semester hours in the teaching of reading and literacy, or other literacy options as outlined in §1301 of this Chapter in alignment with the literacy foundations competencies.

B. Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6, R.S. 17:7(6), and R.S. 17:8.1. – 8.3.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR: 48:460 (March 2022), repromulgated LR 48:1069 (April 2022), LR 48:2556 (October 2022), LR 50:

§1331. Requirements to add Visual Impairments/Blind K-12

A. Individuals holding a valid early childhood certificate in grade levels PK-K or PK-3, elementary certificate in grade levels 1-4, 1-5, 1-6, or 1-8, upper elementary or middle school certificate in grade levels 4-8, 5-8, 6-8, secondary certificate in grade levels 6-12, 7-12, or 9-12, special education certificate, or All-Level K-12 certificate in art, dance, foreign language, health, physical education, health and physical education, theater, or music must earn the following:

1. - 1.g. ...

2. three semester hours of internship of students who are visually impaired or three years of successful teaching experience of students who are visually impaired or blind, verified in accordance with §103 of this Part; and

3. passing scores on exams aligned with the area in accordance with §303 of this Part.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6, R.S. 17:7(6) and R.S. 17:8.1. – 8.3.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 48:461 (March 2022), repromulgated LR 48:1069 (April 2022), LR 50:

Chapter 17. Certification Appeal Process

§1701. Overview

A. The certification appeal process is available to an individual who has applied for certification and has been denied the requested certification due to the absence of certification requirements. The process provides such an individual the opportunity to have the appeal evaluated by the Teacher Certification Appeals Council (TCAC). TCAC

will evaluate all appeals and submit a written report of decisions to BESE. The decision of the TCAC is final.

B. - B.3. ...

4. Upon the notification of the dissolution of any association with nominating authority, BESE shall name a similar association to act as a nominating authority. The association shall submit a list of three nominees to the superintendent. The superintendent shall recommend one person from the list for approval by the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6, R.S. 17:7(6) and R.S. 17:8.8.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 48:474 (March 2022), repromulgated LR 48:1082 (April 2022), LR 50:

Chapter 19. Actions Related to the Suspension/Denial and Revocation of Louisiana Certificates

§1909. Criminal History Reporting

A. - E. ...

F. - G. Repealed.

H. - H.3. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:587.1, 17:6, 17:7, and 17:15.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 48:1752 (July 2022), LR 50:

Family Impact Statement

In accordance with section 953 and 974 of title 49 of the Louisiana Revised Statutes, there is hereby submitted a Family Impact Statement on rules proposed for adoption, repeal, or amendment. All Family Impact Statements will be kept on file in the state board office which has adopted, amended, or repealed rules in accordance with the applicable provisions of the law relating to public records.

1. Will the proposed Rule affect the stability of the family? No.

2. Will the proposed Rule affect the authority and rights of parents regarding the education and supervision of their children? No.

3. Will the proposed Rule affect the functioning of the family? No.

4. Will the proposed Rule affect family earnings and family budget? No.

5. Will the proposed Rule affect the behavior and personal responsibility of children? No.

6. Is the family or a local government able to perform the function as contained in the proposed Rule? Yes.

Poverty Impact Statement

In accordance with section 973 of title 49 of the Louisiana Revised Statutes, there is hereby submitted a Poverty Impact Statement on rules proposed for adoption, amendment, or repeal. All Poverty Impact Statements will be in writing and kept on file in the state agency which has adopted, amended, or repealed rules in accordance with the applicable provisions of the law relating to public records. For the purposes of this section, the word "poverty" means living at or below 100 percent of the federal poverty line.

1. Will the proposed Rule affect the household income, assets, and financial authority? No.

2. Will the proposed Rule affect early childhood development and preschool through postsecondary education development? No.

3. Will the proposed Rule affect employment and workforce development? Yes.

4. Will the proposed Rule affect taxes and tax credits? No.

5. Will the proposed Rule affect child and dependent care, housing, health care, nutrition, transportation, and utilities assistance? No.

Small Business Analysis

The impact of the proposed Rule 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 rule that will accomplish the objectives of applicable statutes while minimizing the adverse impact of the proposed rule on small businesses.

Provider Impact Statement

The proposed Rule should not have any known or foreseeable impact on providers as defined by HCR 170 of the 2014 Regular Legislative Session. In particular, there should be no known or foreseeable effect on:

1. the staffing level requirements or qualifications required to provide the same level of service;

2. the cost to the providers to provide the same level of service; or

3. the ability of the provider to provide the same level of service.

Public Comments

Interested persons may submit written comments via the U.S. Mail until noon, November 9, 2023, to Shan N. Davis, Executive Director, Board of Elementary and Secondary Education, Box 94064, Capitol Station, Baton Rouge, LA 70804-9064. Written comments may also be hand delivered to Shan Davis, Executive Director, Board of Elementary and Secondary Education, Suite 5-190, 1201 North Third Street, Baton Rouge, LA 70802 and must be date stamped by the BESE office on the date received. Public comments must be dated and include the original signature of the person submitting the comments.

Shan N. Davis
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Teacher Certification and Preparation

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

There are no anticipated implementation costs or savings to state or local governmental units due to the proposed rule revisions to LAC 28:CXXXI. Bulletin 746–Louisiana Standards for State Certification of School Personnel and LAC 28:XLV. Bulletin 996–Standards for Approval of Teacher and/or Educational Leader Preparation Programs. The proposed rule revisions align certification policy with legislation enacted by the 2022 and 2023 Regular Legislative Sessions. Acts 63, 371, and 392 of the 2023 RS require updates that include educator evaluations, military and out-of-state reciprocity, Teacher Certification Appeals Council appointing authority, literacy courses and training, and grade point average (GPA)

NOTICE OF INTENT

Board of Regents
Office of Student Financial Assistance

Scholarship/Grant Programs—2024 COVID-19 Exceptions
(LAC 28:IV.2103)

The Board of Regents announces its intention to amend its Scholarship/Grant rules (R.S. 17:3021-3025, R.S. 3041.10-3041.15, R.S. 17:3042.1, R.S. 17:3048.1, R.S. 17:3048.5 and R.S. 17:3048.6).

This rulemaking implements COVID-19 as a circumstance for which students may request an exception to the continuous, full time, and earned annual hours requirements for TOPS. (SG24215NI)

Title 28

EDUCATION

Part IV. Student Financial Assistance—Higher Education Scholarship and Grant Programs

Chapter 21. Miscellaneous Provisions and Exceptions

§2103. Circumstances Warranting Exception to the Initial and Continuous Enrollment Requirements

A. - E.13.c. ...

14. COVID-19—Fall 2020 through Summer 2022

a. Definition. The student/recipient is unable to enroll in school, to maintain continuous enrollment in school, or to earn the required annual hours due to circumstances related to the COVID-19 pandemic as follows:

- i. you struggle with on-line instruction; or
ii full time enrollment in on-line instruction is not conducive to your major/course of study; or
iii. you do not have the appropriate infrastructure, such as internet access, sufficient bandwidth for the number of people attending school/working from home, etc., to attend classes on-line; or

iv. your parent(s) were unable to work, lost their employment, or worked reduced hours due to mitigation measures implemented to prevent the spread of COVID-19.

b. Certification Requirements. The student/recipient must submit the following documentation:

i. if requesting an exception based on Section 14.a.i. above, a letter from a parent and/or a letter from an academic advisor or dean at your school stating that you struggle with on-line enrollment; or

ii. if requesting an exception based on Section 14.a.ii above, a letter from an academic advisor or dean at your school that full time enrollment in on-line instruction is not conducive to your major/course of study; or

iii. if requesting an exception based on Section 14.a.iii. above, a letter from a parent or other documentation that you do not have the appropriate infrastructure at home to attend courses on-line; or

for certification and for entry to teacher preparation programs. Act 448 of the 2022 RS requires certain elementary teacher candidates to pass an assessment including foundational literacy skills. Further revisions update required certification examination titles and identification numbers.

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

The proposed rule revisions may result in an indeterminable increase in revenue collections for state governmental units. It is possible that expansion of the temporary employment permit and out-of-state reciprocity could result in an increase in the number of certification applications received. Act 745 of the 2022 RS allows the Louisiana Department of Education (LDE) to charge a fee of \$25 to process Criminal Background Checks (CBCs). LDOE additionally collects a \$50 processing fee for each teacher certification application. The expected increase in certification applications will result in additional fees collected. Note: CBCs will not be required to be processed until the third quarter of FY 25.

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

As a result of the proposed rule revisions, potential educators may be more likely to enter the profession under the GPA flexibility, temporary employment permit expansion, and out-of-state considerations. Current educators who teach in multiple settings may experience a less cumbersome certification renewal process. Educator preparation program providers may need to revise some program components in alignment with the literacy and dyslexia requirements. A limited number of educators may need to take an additional assessment in the teaching of reading. Proposed rule changes add the Teaching Reading: Elementary (5205) Exam, currently offered by Educational Testing Services (ETS), which has been added to the list of required PRAXIS exams needed for certification. The exam fee for teacher certification applicants is \$156. LDOE reports the department is in the process of updating an existing exam to include the required literacy skills assessment. Once this is completed, exam policy will be updated to permit its use as an option to meet the literacy exam requirement.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule revisions expand opportunities for prospective teachers to enter teacher preparation programs and the Louisiana workforce. Some flexibility will be allowed in the grade point average required to enter a teacher preparation program, with requirements for program performance. Further, individuals with a bachelor's degree can apply for a temporary employment permit to teach in the area of the degree as long as certain requirements are met. Additionally, changes to the way teaching experience is credited will facilitate certification for individuals moving into Louisiana from out-of-state, especially members of the military and their spouses, and support certification renewals for teachers providing instruction in a variety of settings.

Beth Scioneaux
Deputy Superintendent
2310#030

Patrice Thomas
Deputy Fiscal Officer
Legislative Fiscal Office

iv. if requesting an exception based on Section 14.a.iv above, a letter from your parent/parents as well as a letter from their employer stating that the parent/parents were unable to work, lost their employment, or worked reduced hours due to mitigation measures implemented to prevent the spread of COVID-19.

c. Length of Exception. Available for the fall semester/quarter of 2020 through the summer semester/quarter of 2022.

15. COVID-19—Fall 2023 through Summer 2024

a. Definition. The student/recipient is unable to enroll in school, to maintain continuous enrollment in school, or to earn the required annual hours due to circumstances related to the COVID-19 pandemic as follows:

- i. you have been diagnosed with COVID-19; or
- ii. a member of your family with whom you reside has been diagnosed with COVID-19; or
- iii. you were exposed to COVID-19 and must adhere to COVID-19 quarantine protocols; or
- iv. you live with or provide care to a family member who is at risk for severe complications if they contract COVID-19.

b. Certification Requirements. The student/recipient must submit the following documentation:

i. if requesting an exception based on Section 15.a.i or ii, above, a written statement of diagnosis from a qualified health care provider or a pharmacy. If you do not have a written statement of diagnosis or the affected individual tested positive on a home COVID-19 test, you must provide a sworn affidavit from a family member other than the affected individual attesting to the positive COVID-19 test; or

ii. if requesting an exception based on Section 14.a.iii. above,

a. a sworn affidavit from you attesting that you have been exposed to COVID-19 and a copy or link to your college or university's policy regarding such exposure; or

b. documentation of a notification from a public health authority, your postsecondary institution, or other reliable source notifying you of exposure; or

iii. if requesting an exception based on Section 14.a.iv above, a letter from a qualified health care provider attesting that you live with or provide care for a family member who is at high risk for severe complications if they contract COVID-19.

a. Length of Exception. Available for the fall semester/quarter of 2023 through the summer semester/quarter of 2024.

b. In the event that there is an increase in COVID-19 positivity rates on a majority of the campuses of eligible colleges and universities such that they are required to offer instruction solely online or in a hybrid format, some or all of the requirements of §2103.E.14 may be reinstated for the time period specified in §2103.E.15.c. Reinstatement of these provisions will be communicated via bulletins to eligible colleges and universities, on LOSFA's website, and through LOSFA's social media.

F. - I.6. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3025, R.S. 17:5001 et seq., and R.S. 17:3050.1-3050.4.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 22:338 (May 1996), amended LR 23:1648 (December 1997), repromulgated LR 24:647 (April 1998), amended LR 24:1916 (October 1998), LR 26:1015 (May 2000), LR 26:2002 (September 2000), LR 27:36 (January 2001), repromulgated LR 27:1866 (November 2001), amended LR 27:1875 (November 2001), LR 28:46 (January 2002), LR 28:449 (March 2002), LR 28:775 (April 2002), LR 28:2330 and 2333 (November 2002), LR 29:126 (February 2003), LR 29:2373 (November 2003), LR 29:2373 (November 2003), LR 30:785 (April 2004), LR 30:1167 (June 2004), LR 31:1060 (May 2005), LR 33:440 (March 2007), LR 35:1233 (July 2009), LR 38:3160 (December 2012), LR 41:657, 667 (April 2015), amended by the Board of Regents, Office of Student Financial Assistance, LR 44:562 (March 2018), LR 45:1173 (September 2019), LR 50:

Family Impact Statement

The proposed Rule has no known impact on family formation, stability, or autonomy, as described in R.S. 49:972.

Poverty Impact Statement

The proposed rulemaking will have no impact on poverty as described in R.S. 49:973.

Small Business Analysis

The proposed Rule will have no adverse impact on small businesses as described in R.S. 49:965.2 et seq.

Provider Impact Statement

The proposed Rule will have no adverse impact on providers of services for individuals with developmental disabilities as described in HCR 170 of 2014.

Public Comments

Interested persons may submit written comments on the proposed changes (SG24215NI) until 4:30 p.m., November 10, 2023, by email to LOSFA.Comments@la.gov or to Sujuan Williams Boutté, Ed. D., Executive Director, Office of Student Financial Assistance, P.O. Box 91202, Baton Rouge, LA 70821-9202.

Robyn Rhea Lively
Senior Attorney

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Scholarship/Grant Programs
2024 COVID-19 Exceptions**

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

There will be an increase in Taylor Opportunity Program for Students (TOPS) expenditures as a result of the proposed rulemaking, however the magnitude of the increase is indeterminable.

The proposed rule adds a COVID-19 Exception with eligibility for the exception limited to students impacted during the 2023-24 academic year. Students who apply and qualify for the new exception will regain or maintain their TOPS award eligibility. Restoring a student's TOPS award will reduce any program cost savings associated with COVID-19 related impacts to student academic progress and is anticipated to increase TOPS expenditures in future fiscal years by shifting costs to a later term or, in a few cases, allowing a student who would have been cancelled under normal conditions to retain their award.

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

There is no impact on state or local governmental revenues.

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

The proposed rulemaking will benefit students impacted by COVID-19 by enabling them to retain their TOPS funding and pursue postsecondary education and thus gain educational benefits and access to higher paying jobs.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There are no anticipated effects on competition and employment resulting from these measures other than promoting a better educated pool of workers.

Robyn Rhea Lively
Senior Attorney
2310#039

Patrice Thomas
Deputy Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Environmental Quality
Office of the Secretary
Legal Affairs and Criminal Investigations Division**

Disposal of Coal Combustion Residuals
(LAC 33:VII.Chapter 10)(SW068)

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary gives notice that rulemaking procedures have been initiated to amend the Solid Waste regulations, LAC 33:VII.Chapter 10 (SW068).

This Rule creates a new Chapter in the regulations in order to combine existing state and federal requirements for coal combustion residual (CCR) landfills and/or surface impoundments in Louisiana. This new Chapter will adopt by reference the federal CCR Rule promulgated by the Environmental Protection Agency (EPA) at 40 CFR 257 Subpart D, and will include existing state requirements for permitting and other existing state requirements for CCR units, including monitoring and financial assurance. Adoption of the federal Rule will allow LDEQ to obtain delegated authority from EPA for implementing the federal requirements and issuing required permits. Once the Rule is adopted and EPA has delegated authority, regulated CCR units will be able to receive a single permit from LDEQ to meet both programs.

The Environmental Protection Agency (EPA) promulgated the Federal CCR Rule in April 2015, requiring federal regulations for facilities that operate CCR landfill and surface impoundments. In 2016, the WIIN Act was passed by Congress allowing states to manage CCR units under state permitting programs. In order to regulate the CCR units in Louisiana, new regulations are required for operating CCR units in the state. The basis and rationale for this proposed Rule are to provide for a single, merged program implemented under state authority for the regulation of coal combustion residue units in Louisiana. This Rule creates a new Chapter in the regulations in order to combine existing state and federal requirements for CCR landfills and/or surface impoundments. This new Chapter will adopt by

reference the federal CCR Rule promulgated by EPA at 40 CFR 257 Subpart D, and will include existing state requirements for permitting and other existing state requirements for CCR units, including monitoring and financial assurance. Adoption of the federal Rule will allow LDEQ to obtain delegated authority from EPA for implementing the federal requirements and issuing required permits. Once the Rule is adopted and EPA has delegated authority, regulated CCR units will be able to receive a single permit from LDEQ to meet both programs. This Rule meets an exception listed in R.S. 30:2019(D)(2) and R.S. 49:963.B(3); therefore, no report regarding environmental/health benefits and social/economic costs is required.

Title 33

ENVIRONMENTAL QUALITY

Part VII. Solid Waste

Subpart 1. Solid Waste Regulations

Chapter 10. Coal Combustion Residuals (CCR) Waste Management

§1001. Applicability

A. Except as provided in LAC 33:VII.1001.B, this Chapter applies to:

1. owners and operators of new and existing coal combustion residuals (CCR) landfills and surface impoundments that dispose of or otherwise engage in solid waste management of CCR generated from the combustion of coal located at electric utilities and independent power producers;

2. owners and operators of new or existing CCR disposal units located off-site of electric utility or independent power producer facilities;

3. owners and operators of inactive CCR surface impoundments located at active electric utilities and independent power producers regardless of the fuel currently used to produce electricity at the facility;

4. a lateral expansion of a CCR landfill or surface impoundment; and

5. any CCR management practice that does not meet the definition of beneficial use of CCR in 40 CFR 257.53.

B. This Chapter does not apply to:

1. owners and operators of CCR landfills that ceased receiving CCR before October 19, 2015;

2. CCR surface impoundments that no longer contain water or can no longer impound liquids;

3. cooling water ponds, process water ponds, wastewater treatment ponds, stormwater holding ponds, or aeration ponds;

4. wastes, including fly ash, bottom ash, boiler slag, and flue gas desulfurization materials, generated at facilities that are not part of an electric utility or independent power producer, such as manufacturing facilities, universities, and hospitals;

5. fly ash, bottom ash, boiler slag, or flue gas desulfurization materials generated primarily from the combustion of fuels (including other fossil fuels) other than coal, for the purpose of generating electricity unless the fuel burned consists of more than 50 percent coal on a total heat input or mass input basis, whichever results in the greater mass feed rate of coal;

6. beneficial use of CCR, as defined in 40 CFR 257.53;

7. CCR placement at active or abandoned, underground, or surface coal mines;

8. owners and operators of municipal solid waste landfills that receive CCR;

9. owners and operators of commercial industrial nonhazardous waste landfill (CINWL) facilities, authorized by an LDEQ state permit issued under LAC 33:VII.Chapters 5 and 7; or

10. the use of *mandatory modifications* as defined in LAC 33:VII.115.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, Legal Affairs and Criminal Investigations Division, LR 50:

§1002. Definitions

A. Terms provided in 40 CFR 257.53 are adopted by reference as of July 1, 2022, with the exception of *Aquifer* and *Uppermost Aquifer*. In addition to the definitions referenced above, the definitions listed below will be utilized for this Chapter.

Act—the Louisiana Environmental Quality Act (R.S. 30:2001 et seq).

Aquifer—a continuous geologic formation, group of formations, or part of a formation that contains enough saturated permeable materials to yield significant quantities of water to wells or springs. For the purposes of these regulations, a *significant quantity of water* is enough water to yield a groundwater sample within 24 hours after purging a monitoring well.

Contamination (Environmental)—the degradation of naturally occurring water, air, or soil quality either directly or indirectly as a result of human activities.

Contamination (Solid Waste)—the admixture of any solid waste with any amount of hazardous waste or any other type of waste not meeting the definition of solid waste.

Department—the Louisiana Department of Environmental Quality as created by R.S. 30:2001 et seq.

Liner—layer or layer(s) of materials beneath and on the sides of a solid waste disposal facility that are designed to restrict the escape of wastes or their constituents from the facility.

Major Modification—any change in a site, facility, process or disposal method, or operation that substantially deviates from the permit or tends to substantially increase the impact of the site, facility, process or disposal method, or operation on the environment.

Minor Modification—any modification that does not meet the criteria for a major modification.

Modification—any change in a site, facility, unit, process or disposal method, or operation that deviates from the specifications in the permit. Routine or emergency maintenance that does not cause the facility to deviate from the specifications of the permit is not considered a modification.

Monitoring Well—any permanent cased hole that is drilled, augured, bored, cored, driven, washed, dug, jetted, or otherwise constructed to obtain hydrologic and water quality data, which is usually installed at or near a known or potential source of groundwater contamination to satisfy regulatory requirements for groundwater monitoring at the regulated units.

Permit—a written authorization issued by the administrative authority to a person for the construction, installation, modification, operation, closure or post-closure of a certain facility used or intended to be used to process or dispose of solid waste in accordance with the Act, these regulations, and specified terms and conditions.

Person—an individual, trust, firm, joint stock company, corporation (including a government corporation), partnership, association, state, municipality, commission, political subdivision of the state, interstate body, or the federal government or any agency of the federal government.

Site—the physical location, including land area and appurtenances, of an existing or proposed storage, processing, or disposal facility. A site may consist of a number of facilities, each subject to a permit to process or dispose of solid waste.

Uppermost Aquifer—The geologic formation (excluding the vadose zone) nearest the natural ground surface that is an aquifer, as well as lower (deeper) geologic formations that are aquifers and are hydraulically connected within the facility's property boundary. An aquifer can yield usable quantities of groundwater and for the purposes of this regulation, an aquifer is defined as being capable of yielding a groundwater sample from a monitoring well within 24 hours without purging a monitoring well dry. The upper limit of the uppermost aquifer is measured at a point nearest to the natural ground surface to which the aquifer rises during the wet season.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, Legal Affairs and Criminal Investigations Division, LR 50:

§1003. CCR Standards

A. The department hereby incorporates by reference 40 CFR Part 257, Subpart D, *Standards for the Disposal of Coal Combustion Residuals in Landfills and Surface Impoundments*, July 1, 2022, except 40 CFR 257.50, 257.51, and all amendments made to the Federal regulations by the July 30, 2018 Final Rule (83 FR 36435), including the addition of 257.90(g).

B. Except as provided in LAC 33:VII.1001, facilities that manage or dispose of CCR generated from the combustion of coal at electric utilities or independent power producers in an existing landfill, or an existing or inactive surface impoundment, shall submit a permit application to the department for a new solid waste permit or a modification to an existing solid waste permit, as applicable, in accordance with LAC 33:VII.Chapter 5, within 365 days of the effective date of this regulation.

C. Except as provided in LAC 33:VII.1001, the disposal or management of CCR in a new or lateral expansion of a CCR landfill or surface impoundment is prohibited unless such activity is authorized by a permit issued in accordance with LAC 33:VII.509, 513, and 517.

D. The duration of any permit issued for the disposal or management of CCR shall be a maximum of 10 years, and shall comply with the requirements of LAC 33:VII.509.D.2.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, Legal Affairs and Criminal Investigations Division, LR 50:

§1004. CCR Permit Requirements

A. Permitting Requirements

1. Any person who processes and/or disposes of CCR shall submit a timely permit application as required under this Chapter and shall operate in compliance with all terms and conditions of the effective permit.

2. All permit application contents listed in LAC 33:VII.519 and all permit conditions listed in LAC 33:VII.529 shall apply for each permit issued under this Chapter.

3. All permits issued to CCR facilities shall be issued with an effective period not to exceed 10 years, and may be issued for a period of less than 10 years in accordance with LAC 33:VII.509.D.2.

a. A renewal application shall be submitted no later than 365 days prior to expiration of the permit in accordance with LAC 33:VII.509.D.2.a, once a permit has been issued for a facility.

b. Submittal of a timely permit renewal application shall administratively extend the effectiveness of the terms and conditions of the current permit until final action is taken on the renewal application.

4. Each facility processing and/or disposing of CCR subject material to the permitting requirements of this Chapter shall operate under a permit for the active life of the facility and duration of post-closure care, until such time the department deems closure and post-closure complete and terminates permit coverage.

5. The owner or operator shall obtain a permit modification in accordance with LAC 33:VII.517 prior to making a change in a CCR unit, or initiating any change that is a deviation from the specifications in 40 CFR Part 257, subpart D and/or the existing permit.

6. The owner/operator of any permitted CCR facility shall submit an application for a permit modification to incorporate any changes necessary to ensure that coal ash units continue to maintain compliance with revised federal CCR standards.

7. All proposed changes in ownership shall comply with the provisions specified in LAC 33:I.Chapter 19.

B. Permit Application Requirements

1. Each CCR permit renewal application or permit modification application shall contain the information required by this Chapter, 40 CFR Part 257 subpart D, and on the department's website with regards to permit applications and permit application instructions.

2. A new permit application or permit renewal application under this Chapter shall include information in LAC 33:VII.519 and 709.A.-D. All major permit modifications or minor permit modification applications under this Chapter shall be processed in accordance with LAC 33:VII.517.

3. All technical reports in an application shall be prepared and signed by a professional engineer licensed in the state of Louisiana.

4. All certifications and verifications executed by a licensed professional engineer in an application shall be accompanied by all material technical reports relied upon by the professional engineer licensed in the state of Louisiana for certification.

5. Maps shall be provided with the application. In addition, topographic, aerial, and facility layout maps shall be provided that visually describe surrounding features and facility layout and identify unit-related details.

6. The permit application shall include a verification that the design, construction, and operation of the CCR landfill, lateral expansion, or surface impoundment meet the requirements of 40 CFR 257.70-84.

7. Property owner information shall be provided in the application in accordance with LAC 33:VII.519.B.1.

8. Any fee required by LAC 33:VII.Chapter 15 shall be submitted with the permit application.

C. Geology

1. The application shall be prepared and signed in accordance with LAC 33:VII.801 and 803. It shall include a summary of the geologic conditions at the facility and the relation of the geologic units and aquifers to each CCR unit. In addition to the groundwater monitoring requirements of 40 CFR 257.90-98, the requirements of LAC 33:VII.805.A shall also apply.

2. Previously prepared documents shall be submitted by the permit applicant, unless otherwise instructed by the department, but shall be supplemented or updated, as necessary, to provide the requested information.

3. Sources and references for previously prepared documents for permit applications shall be provided.

D. An applicant shall submit documentation in the application demonstrating compliance with applicable land use and/or location restrictions, in accordance with 40 CFR 257.3-1-3-3 and 257.60-64.

E. Design Criteria

1. An applicant shall submit documentation in the permit application demonstrating compliance with applicable design criteria, in accordance with 40 CFR 257.70-74.

a. The liner system beneath a new landfill, or any lateral expansion of a landfill under 40 CFR 257.70(b), shall include a composite geomembrane liner at least 30-mil thick that shall be installed directly above and in uniform contact with a 3 foot recompacted clay liner having a hydraulic conductivity no greater than 1×10^{-7} cm/sec.

b. The liner system beneath a retrofitted or new surface impoundment shall meet the requirements of LAC 33:VII.1004.E.1.a and include a composite geomembrane liner at least 30-mil thick installed directly above and in uniform contact with a 3 foot recompacted clay liner having a hydraulic conductivity no greater than 1×10^{-7} cm/sec.

2. For new or lateral expansions of CCR landfill and surface impoundments, the owner or operator shall submit subsurface soil information. A sufficient number of borings shall be performed to establish the subsurface stratigraphy and determine geotechnical properties beneath the unit. The borings shall be to a sufficient depth to identify the uppermost aquifer and any underlying hydraulically interconnected aquifer. All borings shall be conducted in accordance with established field exploration methods. The subsurface soil information shall be prepared and included in the application and certified in accordance with 40 CFR Part 257 and LAC 33:VII.803. The subsurface soil information shall include:

a. a lithological description of all borings drilled at the unit location to test soils and characterize groundwater;

b. a unit map drawn to scale showing the surveyed locations and elevations of the borings and monitoring wells;

c. cross-sections prepared from the borings and monitoring wells depicting the generalized strata beneath the unit;

d. boring logs for all soil boring and monitoring wells, including a description of materials encountered and any discontinuities such as fractures, fissures, slickensides, lenses, or seams;

e. a description of the geotechnical data and geotechnical properties of the subsurface soil materials, including the suitability of the soils and strata for the intended uses; and,

f. a demonstration that all geotechnical tests were performed in accordance with industry practice and recognized procedures.

F. The applicant shall submit documentation in the permit application demonstrating compliance with Chapter 10 and 40 CFR Part 257, Subpart D, including submittal of the most recent annual inspection report prepared pursuant to 40 CFR 257.83(b)(2) and 257.84(b)(2), certified by a professional engineer in the state of Louisiana.

G. Groundwater Monitoring Zone and Unit Siting

1. Facilities shall monitor the groundwater quality of the entirety of the *uppermost aquifer*, as defined in LAC 33:VII.1002.A., beneath the permitted unit on a semiannual basis.

a. Monitoring wells shall be installed at the facility in accordance with 40 CFR 257.91, and shall be completed and/or plugged and abandoned in accordance with LAC 33:VII.805.A.3-6.

b. A sufficient number of wells shall be installed in the uppermost aquifer, to ensure the entirety of the zone is monitored. Depending on the thickness of the aquifer, monitoring wells may be required to be installed at the top of aquifer, middle of the aquifer, and/or bottom of the aquifer.

c. The geology beneath the permitted unit shall be characterized as well as the aquifer(s) beneath the permitted unit.

2. If statistically significant increases (SSIs) are identified above background concentrations while in detection monitoring, or if statistically significant levels (SSLs) are identified above groundwater protection standards while in assessment monitoring, the department may require the installation of additional monitoring wells in the next (deeper) aquifer(s). Additionally, vertical and horizontal delineation of the aquifer(s) shall be required.

a. If SSIs or SSLs are identified monitoring of the uppermost aquifer shall continue.

b. If SSIs or SSLs are identified in any portion of the uppermost aquifer zone, monitoring wells shall be installed into the next (deeper) aquifer to ensure groundwater quality beneath the permitted unit.

c. If SSIs or SSLs are identified in the aquifer beneath the uppermost aquifer, monitoring wells shall be installed in the next aquifer to determine and monitor groundwater quality beneath the permitted unit.

3. The facility shall monitor all aquifers with groundwater wells on a semiannual basis and address any contamination identified during the investigation/delineation conducted in accordance with Paragraph G.2 of this Section.

4. The base of the CCR unit (surface impoundments, new landfills, or lateral expansions of landfill) shall be at least 5 feet above the uppermost aquifer that is being monitored.

H. Groundwater Monitoring and Corrective Action Information in Permit Applications

1. An applicant shall submit or reference the following information in the permit application:

a. a description and details of the groundwater monitoring system that demonstrates compliance with the requirements of this Chapter; and

b. a description and details of the groundwater sampling and analysis program that demonstrates compliance with the requirements of this Chapter.

2. Detection Monitoring

a. The owner or operator shall submit sufficient information, supporting data, analyses, and where applicable, the most recent alternate source demonstration to support a detection monitoring program that meets the requirements of LAC 33:VIII.1003.A.

b. In addition to the requirements of LAC 33:VIII.1003.A, facilities shall comply with the notification requirements of LAC 33:VII.805.C.6.a.i and ii.

3. Assessment Monitoring

a. If any Appendix III constituents in 40 CFR Part 257 have been detected in the groundwater at SSIs above background concentrations, and no alternate source demonstration has been made before issuance of a permit modification required by LAC 33:VII.1003.B., the owner or operator to support an assessment monitoring program that meets the requirements of this Chapter shall submit:

- i. sufficient information;
- ii. supporting data; and
- iii. analyses.

b. A facility may remain in detection monitoring if an alternate source demonstration is submitted for the SSIs and approved by the department within 90 days of initial detection of SSIs.

c. If an alternate source demonstration is still under review or additional investigation is ongoing 90 days after the initial detection of SSIs, the facility shall initiate the assessment monitoring requirements.

d. If the alternate source demonstration is denied, the facility shall initiate the assessment monitoring requirements.

e. In addition to the requirements of this Chapter, when a facility initiates assessment monitoring requirements, the facility shall submit an assessment work plan to the department in accordance with LAC 33:VII.805.D.6.

4. Corrective Action

a. If any Appendix IV constituents in 40 CFR Part 257 have been detected in the groundwater at SSLs above groundwater protection standards, the owner or operator shall submit:

- i. sufficient information;
- ii. supporting data; and
- iii. analyses to establish a corrective action program that meets the requirements of this Chapter and 40 CFR 257.96-98.

b. A facility may remain in assessment monitoring if an alternate source demonstration for the SSLs is

submitted and approved by the department within 90 days of initial identification of the SSLs.

c. If an alternate source demonstration is still under review or additional investigation is ongoing 90 days after the initial detection of SSLs, the facility shall initiate the corrective action monitoring requirements.

d. If the alternate source demonstration is denied, the facility shall initiate the corrective action requirements.

e. In addition to the requirements of this Chapter, when a facility initiates corrective action requirements, the facility shall submit a plan to the department in accordance with LAC 33:VII.805.D.7.

I. Groundwater Monitoring Parameters

1. A facility shall collect semiannual samples for the parameters set forth in 40 CFR Part 257, Appendix III for detection monitoring.

2. A facility in assessment monitoring shall collect semiannual samples for all the parameters set forth in 40 CFR 257.95(b), Appendix III, and at a minimum, those parameters detected during the 40 CFR Part 257, Appendix IV sampling event. Sampling for all Appendix IV parameters shall occur annually. The results of the semiannual sampling events are to be placed into the facility's operating record.

3. In addition to monitoring the parameters in Paragraphs I.1 and 2 of this Section, the facility shall also monitor groundwater for parameters that provide a reliable indication of the presence of CCR contaminants in the groundwater. The facility shall follow LAC 33:VII.805.C.7.a.i-iv to determine the additional monitoring parameters.

J. Closure and Post-Closure Care Permit Application Information

1. The applicant shall submit documentation in the permit application demonstrating compliance with 40 CFR 257.100–104.

2. Submit closure and post-closure care cost estimate(s) required by LAC 33:VII.Chapter 13.

K. In addition to the requirements of 40 CFR 257.105, the owner or operator shall keep records throughout the term of the permit. These records include applications, notifications, and reports required by this Chapter and 40 CFR 257.105, data, and supplemental information used to complete applications and reports required by this Chapter.

L. Documents that have already been submitted to the department for review and approval or posted on the publicly accessible website prior to the effective date of LAC 33:VII.Chapter 10 shall be submitted to the department upon request.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, Legal Affairs and Criminal Investigations Division, LR 50:

§1005. Semiannual Groundwater Monitoring Reports

A. The owner or operator shall submit semiannual groundwater monitoring reports to the department in the format specified by LAC 33:VII.805.C.5.a within 90 days of initiation of the semiannual sampling and analysis events, in addition to the annual groundwater monitoring and corrective action report required, as set forth in 40 CFR

257.90(e). The annual, semiannual, and corrective action groundwater monitoring reports shall comply with the requirements of 40 CFR 257.90(e) and LAC 33:VII.805.C.5.a.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, Legal Affairs and Criminal Investigations Division, LR 50:

§1006. Public Notice and Public Hearing Procedures

A. Public Notice

1. Applicability. This Section applies to permit applications for initial permits, permit renewals, and major modifications of CCR landfills and surface impoundments, which are subject to the requirements of this Chapter. The public notice and public comments requirements in LAC 33:VII.513.B.7. and 8. shall apply to permit applications for initial and renewal permits for CCR landfills and surface impoundments subject to the provisions of this Chapter, as well as major modification and final permit decisions issued pursuant to LAC 33:VII.Chapter 10, except as otherwise provided in this Section.

2. Pre-Application Public Notice

a. Prior to the submittal of a permit application, the applicant shall publish a public notice of intent to submit a permit application within 45 days prior to submission of the application in accordance with LAC 33:VII.513.B.7.

b. Proof of publication shall be posted on the facility's public CCR website.

3. Post-Application Public Notice

a. After submittal of the permit application to the Louisiana Department of Environmental Quality, Office of Environmental Services, the applicant shall publish a public notice of submission within 45 days after submittal of the application in accordance with LAC 33:VII.513.B.8.

b. Proof of publication shall be posted on the facility's public CCR website.

4. Draft Permit Decision

a. Once an application is deemed technically complete and a draft permit has been prepared, the draft permit shall be submitted for public notice in accordance with LAC 33:VII.513.G. and notification of public notices shall be published on the facility's public CCR website.

b. The draft permit shall be sent to the local public library in the parish where the facility is located, LDEQ regional offices, and/or governing authority for public review.

c. The draft permit shall be made available for public review in the department's electronic document management system.

d. The public comment period will be a minimum of 30 days for permit applications and major modifications.

e. The department will review and consider all public comments received during the public comment period prior to making a final decision on a permit.

5. Final Permit Decision

a. After the public notice period has ended, the department will issue a final decision on the permit in accordance with LAC 33:VII.513.H.

b. No later than 20 days following the issuance of a final permit decision for a standard permit, the department shall publish a notice of final permit decision, in accordance with LAC 33:VII.513.I, on the department's website.

c. The notice will be sent to those persons who commented on the draft permit decision or those who have requested to be provided written notice.

B. Public Hearing

1. Applicability. Any public hearings held by the administrative authority will be conducted in accordance with LAC 33:VII.509.E. A public hearing shall be held for any CCR facility permit if the administrative authority determines, on the basis of comments received and/or other information, that a hearing is necessary or appropriate.

2. The proceedings of all public hearings conducted pursuant to this Section shall be recorded and a copy of the recording, or a verbatim transcript recording, shall be filed in the record of the hearing.

3. The department retains the discretion to hold a public hearing on any permit application that does not require a public hearing.

4. Public notices of public hearings will be published in accordance with LAC 33:VII.509.E.6.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, Legal Affairs and Criminal Investigations Division, LR 50:

§1007. Financial Assurance

A. Financial assurance for CCR units shall be established and maintained for the duration of the active life of the facility, post-closure care period, and any corrective action for known releases when needed in accordance with LAC 33:VII.519.B.8.c.

B. The financial assurance requirements in LAC 33:VII.1303 and 1399 shall apply to CCR units.

C. The financial assurance shall be submitted to the department within 60 days of approval of permit modification or permit application.

D. Updated financial assurance shall be submitted to the department within 60 days of any changes to the cost estimate.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, Legal Affairs and Criminal Investigations Division, LR 50:

§1008. Enforcement

A. The failure of any person to comply with this Chapter or the terms and conditions of any permit granted or order issued thereunder shall constitute a violation of the Act.

B. CCR units are subject to LAC 33:VII.Chapter 9, if a violation of the Act occurs.

C. Investigation shall be undertaken to determine:

1. whether a violation has occurred or is about to occur;

2. the scope and nature of the violation; and

3. the persons or parties involved.

D. The results of an investigation may be given to any complainant who provided the information prompting the investigation, upon written request and, if advisable, to the person under investigation, if the identity of such person is known.

E. When the administrative authority determines that a violation of the Act or these Chapter 10 regulations or the terms and conditions of any permit issued hereunder has occurred or is about to occur, he shall initiate one or more of the actions set forth in R.S. 30:2025, or as otherwise provided by appropriate rules.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, Legal Affairs and Criminal Investigations Division, LR 50:

Family Impact Statement

This Rule has no known impact on family formation, stability, and autonomy as described in R.S. 49:972.

Poverty Impact Statement

This Rule has no known impact on poverty as described in R.S. 49:973.

Small Business Analysis

This Rule has no known impact on small business as described in R.S. 49:974.1 - 974.8.

Provider Impact Statement

This Rule has no known impact on providers as described in HCR 170 of 2014.

Public Comments

All interested persons are invited to submit written comments on the proposed regulation. Persons commenting should reference this proposed regulation by SW068. Such comments must be received no later than December 5, 2023, at 4:30 p.m., and should be sent to William Little, Attorney Supervisor, Office of the Secretary, Legal Affairs Division, P.O. Box 4302, Baton Rouge, LA 70821-4302, by fax (225) 219-4068, or by e-mail to DEQ.Reg.Dev.Comments@la.gov. Copies of this proposed regulation can be purchased by contacting the LDEQ Public Records Center at (225) 219-3168. Check or money order is required in advance for each copy of SW068. The proposed regulation is available on the Internet at <https://www.deq.louisiana.gov/page/monthly-regulation-changes-2023%20>.

Public Hearing

A public hearing will be held via Zoom on November 28, 2023, at 1:30 p.m. Interested persons are invited to attend and submit oral comments via PC, Mac, Linux, iOS or Android at <https://deqlouisiana.zoom.us/j/81211942923?pwd=gdYW43qh9oakrNY0PiAc88YyKygeti.1> password 813415 or by telephone by dialing (636) 651-3182 using the conference code 725573. Should individuals with a disability need an accommodation in order to participate, contact William Little at the address given below or at (225) 219-3985.

The proposed regulation is available for inspection at the following LDEQ office locations from 8 a.m. until 4:30 p.m.: 602 N. Fifth Street, Baton Rouge, LA 70802; 508 Downing Pines Road, West Monroe, LA 71292; State Office Building, 1525 Fairfield Avenue, Shreveport, LA 71101; 1301 Gadwall Street, Lake Charles, LA 70615; 111 New Center Drive, Lafayette, LA 70508; 110 Barataria Street, Lockport, LA 70374; 201 Evans Road, Bldg. 4, Suite 420, New Orleans, LA 70123.

Courtney J. Burdette
Executive Counsel

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

RULE TITLE: Disposal of Coal Combustion Residuals

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

There are no estimated implementation costs or savings to state or local governmental units as a result of the proposed rule change.

The proposed rule change would require the current coal combustion residuals (CCR) units in Louisiana and any future CCR units to be managed under Chapter 10 and referenced federal regulations and not the current regulations. The units are currently managed dually under the solid waste regulations and the federal CCR program and this proposed rule would consolidate the CCR units to be managed under one program.

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

There is no estimated effect on revenue collections of state or local governmental units resulting from this proposed rule.

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

Currently, facilities with CCR units have to perform monitoring and meet requirements of the Louisiana solid waste regulations and the Federal CCR Rule. This creates a financial burden to the facility by having them do work under two programs and spend more time and money adhering to two sets of rules. By aligning the state rule with the federal CCR Rule and regulating these units under the Louisiana regulations, the costs impact on the facilities is greatly reduced. Under the proposed rule, these facilities would only report to LDEQ, instead of both LDEQ and the Environmental Protection Agency.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no estimated effect on competition or employment in the public or private sector as a result of the proposed rule change.

Courtney J. Burdette
Executive Counsel
2310#026

Patrice Thomas
Deputy Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Environmental Quality
Office of the Secretary
Legal Affairs and Criminal Investigations Division**

Subscriber Agreements
(LAC 33:I.2105)(OS102)

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary gives notice that rulemaking procedures have been initiated to amend the Office of the Secretary regulations, LAC 33:I.2105.B (OS102).

The proposed changes to LAC 33:I.2105.B are intended to clarify the approval procedure for subscriber agreements as defined in LAC 33:I.2103.A. Previously, the approval procedure for subscriber agreements, as found in LAC 33:I.2105.B, differed from the definition of subscriber agreement, as found in LAC 33:I.2103.A. The proposed changes to LAC 33:I.2105.B are intended to bring such language into conformity. The basis and rationale for this

Rule are to increase procedural clarity and reduce confusion. This Rule meets an exception listed in R.S. 30:2019(D)(2) and R.S. 49:963.B(3); therefore, no report regarding environmental/health benefits and social/economic costs is required.

Title 33

ENVIRONMENTAL QUALITY

Part I. Office of the Secretary

**Subpart 1. Departmental Administrative Procedures
Chapter 21. Electronic Submittals and Electronic Signatures**

§2105. Procedures

- A. - A.4. ...
- B. Each *subscriber agreement*, as defined in LAC 33:I.2103.A, shall receive approval from the department, and be retained on file with the department while the subscriber agreement is active and for an additional five years.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2043 and 9:2601.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, Legal Affairs Division, LR 34:1612 (August 2008), amended by the Office of the Secretary, Legal Affairs and Criminal Investigations Division, LR 50:

Family Impact Statement

This Rule has no known impact on family formation, stability, and autonomy as described in R.S. 49:972.

Poverty Impact Statement

This Rule has no known impact on poverty as described in R.S. 49:973.

Small Business Analysis

This Rule has no known impact on small business as described in R.S. 49:974.1 - 974.8.

Provider Impact Statement

This Rule has no known impact on providers as described in HCR 170 of 2014.

Public Comments

All interested persons are invited to submit written comments on the proposed regulation. Persons commenting should reference this proposed regulation by OS102. Such comments must be received no later than December 5, 2023, at 4:30 p.m., and should be sent to William Little, Attorney Supervisor, Office of the Secretary, Legal Affairs Division, P.O. Box 4302, Baton Rouge, LA 70821-4302, by fax (225) 219-4068, or by E-mail to DEQ.Reg.Dev.Comments@la.gov. Copies of the proposed regulation can be purchased by contacting the LDEQ Public Records Center at (225) 219-3168. Check or money order is required in advance for each copy of OS102. The proposed regulation is available on the Internet at <https://www.deq.louisiana.gov/page/monthly-regulation-changes-2023%20>.

Public Hearing

A public hearing will be held via Zoom on November 28, 2023, at 1:30 p.m. Interested persons are invited to attend and submit oral comments via PC, Mac, Linux, iOS or Android at <https://deqlouisiana.zoom.us/j/81211942923?pwd=gdYW43qh9oakrNY0PiAc88YyKygeti.1> password 813415 or by telephone by dialing (636) 651-3182 using the conference code 725573. Should individuals with a disability need an accommodation in order to participate, contact William Little at the address given below or at (225) 219-3985.

The proposed regulation is available for inspection at the following LDEQ office locations from 8 a.m. until 4:30 p.m.: 602 N. Fifth Street, Baton Rouge, LA 70802; 508 Downing Pines Road, West Monroe, LA 71292; State Office Building, 1525 Fairfield Avenue, Shreveport, LA 71101; 1301 Gadwall Street, Lake Charles, LA 70615; 111 New Center Drive, Lafayette, LA 70508; 110 Barataria Street, Lockport, LA 70374; 201 Evans Road, Bldg. 4, Suite 420, New Orleans, LA 70123.

Courtney J. Burdette
Executive Counsel

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Subscriber Agreements**

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

The proposed rule change is not anticipated to have any implementation costs or savings to state or local governmental units.

The proposed rule change clarifies the approval procedure for subscriber agreements. Previously, the approval procedure for subscriber agreements differed from the definition of subscriber agreement. This rule change brings such language into conformity which will increase procedural clarity and reduce confusion.

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

The proposed rule change is not anticipated to have any effect on revenue collections of state or local governmental units.

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

The proposed rule change is not anticipated to have any effect on costs and/or economic benefits to directly affected persons, small businesses, or non-governmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule change is not anticipated to have any effect on competition or employment.

Courtney J. Burdette
Executive Counsel
2310#025

Patrice Thomas
Deputy Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

**Office of the Governor
Division of Administration
Racing Commission**

**Timing of Entering Next Claiming Race
(LAC 35:XI.9905)**

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and through the authority granted in R.S. 4:148, notice is hereby given that the Racing Commission proposes to amend LAC 35:XI.9905. The

proposed amendment adds exceptions to the provisions of claiming procedures and clarifies language regarding when a claimed horse shall not run.

**Title 35
HORSE RACING**

Part XI. Claiming Rules and Engagements

Chapter 99. Claiming Rule

§9905. Timing of Entering Next Claiming Race

A. Except as otherwise provided herein, a claimed horse shall not run for 20 days after being claimed in a race in which the determining eligibility price is less than 25 percent more than the price at which the horse was claimed. For a period of 10 days thereafter, a horse is eligible to run back for the same claiming price or higher. The day claimed shall not count, but the following calendar day shall be the first day and the horse shall be entitled to enter whenever necessary so the horse may start on the thirty-first day following the claim for any claiming price. This provision shall not apply to allowance/optional claiming or starter allowance/optional claiming races in which a horse is entered for the allowance condition, starter handicaps in which the weight to be carried is assigned by the handicapper, starter stakes and starter allowance races. This provision shall apply to allowance/optional claiming and starter allowance/optional claiming races, if a horse is entered for a claiming price. A similar rule in other states will be recognized and enforced.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:141, R.S. 4:142 and R.S. 4:148.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Racing Commission, LR 30:1476 (July 2004), amended LR 33:2422 (November 2007), LR 41:1673 (September 2015), LR 44:916 (May 2018), LR 50:

Family Impact Statement

This proposed Rule has no known impact on family formation, stability, and/or autonomy as described in R.S. 49:972.

Poverty Impact Statement

This proposed Rule has no known impact on poverty as described in R.S. 49:973.

Small Business Analysis

This proposed Rule has no known measurable impact on small businesses as described in R.S. 49:965.6.

Provider Impact Statement

This proposed Rule has no known impact on providers of services for individuals with developmental disabilities.

Public Comments

The domicile office of the Racing Commission is open from 8 a.m. to 4:30 p.m. Monday - Friday, and interested parties may submit oral or written comments, data, views, or arguments relative to this proposed rule for a period up to 20 days (exclusive of weekends and state holidays) from the date of this publication to Brett Bonin, Assistant Attorney General, 320 North Carrollton Avenue, Suite 2-B, New Orleans, Louisiana 70119-5100.

Charles A. Gardiner III
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Timing of Entering Next Claiming Race**

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

The proposed rule change will not result in any costs or savings to state or local governmental units. The proposed amendment adds exceptions to the provisions of claiming procedures and clarifies language regarding when a claimed horse shall not run.

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

The proposed rule change will not affect revenue collections for state or local governmental units.

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

The proposed administrative rule may result in an indeterminable economic benefit to licensed racetracks in Louisiana by allowing them to fill more horse races with the added exceptions to claiming procedures, which may help increase parimutuel wagering activities at their properties. The proposed administrative rule may result in an indeterminable economic benefit to licensed owners and trainers, who would be able to enter their horses to compete in more races for possible purse winnings.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The effect on competition and employment as a result of the proposed rule changes is indeterminable.

Charles A. Gardnier, III
Executive Director
2310#008

Patrice Thomas
Deputy Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

Department of Health

Board of Examiners of Nursing Facility Administrators

**Pre-Examination Requirements: Conditions Precedent
(LAC 46:XLIX.503)**

The Board of Examiners of Nursing Facility Administrators, pursuant to R.S. 37:2501 et seq., and in accordance with the Administrative Procedure Act, R.S. 49:950 et seq., hereby gives notice of its intent to amend its rules relative to the education and experience required of applicants for licensure as a nursing facility administrator in Louisiana. The board recognizes there is a constant, increasing demand nationwide, specifically including Louisiana, for experienced healthcare professionals of all license classes, including but not limited to administrators. Recent years and the COVID-19 pandemic has greatly exacerbated that demand and has required unquantifiable efforts and burdensome hours for those remaining, active healthcare personnel.

**Title 46
PROFESSIONAL AND OCCUPATIONAL
STANDARDS**

Part XLIX. Nursing Facility Administrators

Chapter 5. Examinations

§503. Pre-Examination Requirements: Conditions Precedent

A. No person shall be authorized to take an examination for licensing licensure as a nursing home administrator, unless he or she reasonably evidences completion of or otherwise complies with the following requirements.

1. The applicant is 21 years of age or older.

2. The applicant is a citizen of the United States of America or a non-citizen who lawfully resides in the United States.

3. The applicant has submitted his or her fingerprints for a state and national criminal history records information search in accordance with R.S. 37:2505.1 and has been determined by the Board to be eligible for licensure following its consideration of all relevant criminal history records information in accordance with applicable law.

4. The applicant is physically and mentally suitable and fit to be licensed and to practice as a nursing home administrator.

5. The applicant has successfully done either of the following:

a. completed a bachelor's degree from an accredited institute of higher learning.

b. submitted evidence to the board reasonably proving the applicant has worked for at least 10 years as a licensed nursing facility administrator either in Louisiana if the applicant has been previously licensed in the state or in any other authorized jurisdiction having substantially similar licensure requirements to those imposed in Louisiana.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2504.

HISTORICAL NOTE: Adopted by the Department of Health and Human Resources, Board of Examiners of Nursing Home Administrators, April 1970, amended and promulgated LR 6:276 (June 1980), repealed and repromulgated by the Department of Health and Hospitals, Board of Examiners of Nursing Home Administrators, LR 18:181 (February 1992), amended by the Department of Health and Hospitals, Board of Examiners of Nursing Facility Administrators, LR 20:789 (July 1994), LR 33:2423 (November 2007), LR 37:592 (February 2011), LR 39:1044 (April 2013), amended by the Department of Health, Board of Examiners of Nursing Facility Administrators, LR 50:

Family Impact Statement

The proposed Rule has no known impact on family formation, stability, or autonomy, as described in R.S. 49:972.

Poverty Impact Statement

The proposed rulemaking will have no impact on poverty as described in R.S. 49:973.

Small Business Analysis

The proposed Rule will have no adverse impact on small businesses as described in R.S. 49:965.2 et seq.

Provider Impact Statement

The proposed Rule will have no adverse impact on providers of services for individuals with developmental disabilities as described in HCR 170 of 2014.

Public Comments

Interested persons may submit written comments on the proposed Rule until 4:30 p.m., November 10, 2023, by mail to Kristie Mascarella, MHA, NFA, Assistant Executive Director at Louisiana Board of Examiners of Nursing Facility Administrators, 5647 Superior Drive, Baton Rouge, LA 70816-6049.

Joseph E. Townsend
Executive Director

to become licensed as a nursing facility administrator to have a bachelor's degree from an accredited institution of higher learning. This prohibits those persons who do not have a bachelor's degree from regaining their license if they have allowed it to lapse, even if they were licensed prior to the enactment of the degree requirement. The proposed changes will allow those persons to become eligible for re-licensing, provided that they were licensed prior to the enactment of the degree requirement, allowed their license to lapse, and have worked at least 10 years as a nursing facility administrator with no adverse actions taken against their license.

Joseph E. Townsend
Executive director
1611#040

Evan Brasseaux
Interim Deputy Fiscal Officer
Legislative Fiscal Office

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Pre-Examination Requirements: Conditions Precedent

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

The Rule changes will result in a one-time expenditure of approximately \$213 in FY for and \$180 in FY 24 for the LA Board of Examiners of Nursing Facility Administrators (LABENFA) to publish the notice of intent and proposed rule revision in the Louisiana Register. The proposed rule changes will not affect expenditures of local governmental units.

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

To the extent that proposed changes to §503 increase the number of eligible applicants for a nursing facility administrator license, LABENFA may collect additional revenue in registration fees. The magnitude of any such impact is indeterminable, but LABENFA estimates there may be two to three former administrators affected by this rule change.

LABENFA anticipated that the proposed changes will require affected holders of lapsed licenses to pay \$1,215 in fees (\$100 application packet fee; \$500 application fee; \$120 state exam fee; \$495 re-registration fee) in order to have their licenses reinstated. In subsequent years, they will be subject to a \$495 annual registration fee. For example, if the proposed changes increase the number of active license holders by three in the first year it is effective, then LABENFA self-generated revenues will increase by \$3,645 in the first year and \$1,485 per year thereafter.

The proposed rule changes will not affect collections for local governmental units.

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

The proposed changes to §503 may benefit some former nursing facility administrators, as the changes allow persons who were once licensed as nursing facility administrators and worked extensively in the industry to be able to be re-licensed, and thus become gainfully employed by accepting available administrator positions. In addition, nursing facilities who are struggling to staff administrator positions may benefit from a slightly larger hiring pool of licensed applicants. However, any such benefits are indeterminable and will likely be small, as LABENFA estimates that only two or three persons will benefit from the proposed changes.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule changes may have a slight positive impact on employment. Current rules require an individual who wishes

NOTICE OF INTENT

Department of Health Bureau of Health Services Financing and Office of Behavioral Health

Home and Community-Based Behavioral Health
Services Waiver
Coordinated System of Care Discharge Criteria
(LAC 50:XXXIII.8103)

The Department of Health, Bureau of Health Services Financing and the Office of Behavioral Health propose to amend LAC 50:XXXIII.8103 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This proposed Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

The Department of Health, Bureau of Health Services Financing and the Office of Behavioral Health propose to amend the provisions governing the home and community-based behavioral health services waiver in order to clarify the criteria for discharge from the Coordinated System of Care program and ensure that members are aware that their failure to cooperate in the re-evaluation assessment will result in discharge from the waiver program.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE Part XXXIII. Behavioral Health Services Subpart 9. Home and Community-Based Services Waiver

Chapter 81. General Provision §8103. Recipient Qualifications

A. - B. ...

C. Recipients shall be discharged from the waiver program if one or more of the following criteria is met:

1. - 4. ...

5. the recipient or his/her parent or guardian disengaged from services, evidenced by lack of face-to-face contact for a minimum of 60 consecutive calendar days or by failure to cooperate in the re-evaluation assessment at least every 180 days;

6. - 7. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:366 (February 2012), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Behavioral Health, LR 41:2361 (November 2015), amended by the Department of Health, Bureau of Health Services Financing and the Office of Behavioral Health, LR 43:324 (February 2017), LR 44:1895 (October 2018), LR 46:183 (February 2020), LR 50:

Implementation of the provisions of this Rule may be contingent upon the approval of the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS), if it is determined that submission to CMS for review and approval is required.

Family Impact Statement

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed Rule on the family has been considered. It is anticipated that this proposed Rule will have a positive impact on family functioning, stability and autonomy as described in R.S. 49:972 as it will properly notify families of the requirement to participate in the level of care assessment to determine eligibility and allow for continuity of needed services.

Poverty Impact Statement

In compliance with Act 854 of the 2012 Regular Session of the Louisiana Legislature, the poverty impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will have no impact on child, individual, or family poverty in relation to individual or community asset development as described in R.S. 49:973.

Small Business Analysis

In compliance with the Small Business Protection Act, the economic impact of this proposed Rule on small businesses has been considered. It is anticipated that this proposed Rule will have no impact on small businesses.

Provider Impact Statement

In compliance with House Concurrent Resolution (HCR) 170 of the 2014 Regular Session of the Louisiana Legislature, the provider impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will have no impact on the staffing level requirements or qualifications required to provide the same level of service, no direct or indirect cost to the provider to provide the same level of service, and will have no impact on the provider's ability to provide the same level of service as described in HCR 170.

Public Comments

Interested persons may submit written comments to Kimberly Sullivan, JD, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. Ms. Sullivan is responsible for responding to inquiries regarding this proposed Rule. The deadline for submitting written comments is at 4:30 p.m. on November 29, 2023.

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 4:30 p.m. on November 9, 2023. If the criteria set forth in R.S. 49:961(B)(1) are satisfied, LDH will conduct a public hearing at 9:30 a.m. on November 28, 2023 in Room 118 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 November 9, 2023. 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.

Stephen R. Russo, JD
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Home and Community-Based Behavioral Health Services Waiver

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

It is anticipated that implementation of this proposed rule will have no programmatic fiscal impact to the state other than the cost of promulgation for FY 23-24. It is anticipated that \$540 (\$270 SGF and \$270 FED) will be expended in FY 23-24 for the state's administrative expense for promulgation of this proposed rule and the final rule.

This proposed rule amends the provisions governing the home and community-based behavioral health services waiver in order to clarify the criteria for discharge from the Coordinated System of Care (CSoC) program and ensure that members are aware that their failure to cooperate in the re-evaluation assessment will result in discharge from the waiver program.

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

It is anticipated that the implementation of this proposed rule will have no effect on revenue collections other than the federal share of the promulgation costs for FY 23-24. It is anticipated that \$270 will be collected in FY 23-24 for the federal share of the expense for promulgation of this proposed rule and the final rule.

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

This proposed rule amends the provisions governing the home and community-based behavioral health services waiver in order to clarify the criteria for discharge from the Coordinated System of Care (CSoC) program and ensure that members are aware that their failure to cooperate in the re-evaluation assessment will result in discharge from the waiver program. It will have a positive impact on beneficiaries as it will allow proper notification of the requirement to participate in the level of care assessment to determine eligibility and allow for continuity of needed services. Implementation of this proposed rule will not result in costs to behavioral health providers and small businesses in FY 23-24, FY 24-25, and FY 25-26, but will be beneficial by ensuring that the criteria for discharge from the CSoC program are clearly and accurately promulgated in the Louisiana Administrative Code.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This rule has no known effect on competition and employment.

Kimberly Sullivan, JD
Interim Medicaid Executive Director
2310#045

Patrice Thomas
Deputy Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

Department of Health Bureau of Health Services Financing and Office for Citizens with Developmental Disabilities

Home and Community-Based Services Waivers
Supports Waiver
(LAC 50:XXI.Chapters 53-61)

The Department of Health, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities propose to amend LAC 50:XXI.Chapters 53-61 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This proposed Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950, et seq.

The Department of Health, Office for Citizens with Developmental Disabilities submitted an application for an amendment to the Supports Waiver to the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS) in order to add and update services provided under the waiver.

The Department of Health, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities propose to amend the provisions governing the Supports Waiver to: 1) add specialized medical equipment and supplies (incontinence supplies) and community life engagement development as services, and transportation as a separate service; 2) add reimbursement for each new service; and 3) allow prevocational services to be delivered virtually in order to align the administrative Rule with the CMS-approved waiver application.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part XXI. Home and Community-Based Services Waivers

Subpart 5. Supports Waiver

Chapter 53. General Provisions

§5301. Purpose

A. The mission of this waiver is to create options and provide meaningful opportunities that enhance the lives of individuals with intellectual and/or developmental disabilities through employment and day service supports in the community. The goals of the supports waiver are as follows:

1. - 3. ...

B. Allocation of Waiver Opportunities. The Office for Citizens with Developmental Disabilities (OCDD) maintains the developmental disabilities request for services registry (DDRSR), hereafter referred to as “the registry,” which identifies persons with intellectual and/or developmental disabilities who are found eligible for developmental disabilities services using standardized tools, and who request waiver services.

1. - 3. ...

4. OCDD waiver opportunities shall be offered based on the following priority groups:

a. Individuals living at publicly operated intermediate care facilities for the developmentally disabled

(ICF/IIDs) or who lived at a publically operated ICF/IID when it was transitioned to a private ICF/IID through a cooperative endeavor agreement (CEA facility), or their alternates. Alternates are defined as individuals living in a private ICF/IID who will give up the private ICF/IID bed to an individual living at a publicly operated ICF/IID or to an individual who was living in a publicly operated ICF/IID when it was transitioned to a private ICF/IID through a cooperative endeavor agreement. Individuals requesting to transition from a publicly operated ICF/IID are awarded a slot when one is requested, and their health and safety can be assured in an OCDD waiver. This also applies to individuals who were residing in a publicly operated facility at the time the facility was privatized and became a CEA facility.

b. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Office for Citizens with Developmental Disabilities, LR 32:1604 (September 2006), amended LR 40:2583 (December 2014), amended by the Department of Health, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 43:2531 (December 2017), LR 48:1574 (June 2022), LR 50:

Chapter 55. Target Population

§5503. Denial of Admission or Discharge Criteria

A. Beneficiaries shall be denied admission to, or discharged from, the supports waiver if one of the following criteria is met:

1. ...

2. the beneficiary does not meet the requirement for an ICF/IID level of care;

3. - 4. ...

5. the beneficiary is admitted to an ICF/IID or nursing facility with the intent to stay and not to return to waiver services:

a. ...

b. the beneficiary will be discharged from the waiver on the ninety-first day if the participant is still in the ICF/IID or nursing facility;

6. - 8. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 40:2584 (December 2014), amended by the Department of Health, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 48:1575 (June 2022), LR 50:

Chapter 57. Covered Services

§5701. Supported Employment Services

A. Supported employment services consists of intensive, ongoing supports and services necessary for a beneficiary to achieve the desired outcome of employment in a community setting where a majority of the persons employed are without disabilities. Beneficiaries utilizing these services may need ongoing supports for the life of their employment due to the nature of their disability, and natural supports may not meet this need.

B. Supported employment services provide supports in the following areas:

1. ...

2. job assessment, discovery and development, placement; and

B.3. - C. ...

D. Transportation is a separate billable component for supported employment services, both individual and group. Transportation may be billed on the same day as a supported employment service is delivered.

E. ...

F. Supported employment services may be furnished by a coworker or other job-site personnel under the following circumstances:

1. ...

2. these coworkers meet the pertinent qualifications for the providers of the service.

G. Service Limitations

1. Services for job assessment, discovery and development in individual jobs and self-employment shall not exceed the number of units as defined in a plan of care year and must have a prior authorization.

2. Services for job assessment, discovery and development in group employment shall not exceed the number of units as defined in a plan of care year and must have a prior authorization.

3. Services for individual initial job support, job retention and follow-along shall not exceed the number of units of service as defined in a plan of care year and must have prior authorization. Individual job follow-along services may be delivered virtually.

4. Services for initial job support, job retention and follow-along in group employment shall not exceed the number of units of service as defined in a plan of care year and must have prior authorization.

H. Restrictions

1. Beneficiaries receiving individual and/or group supported employment services may also receive other services in the same service day. However, these services cannot be provided at the same time of the day.

2. All virtual individual supported employment services must be documented and included in the plan of care. Virtual delivery of group supported employment is not allowed.

I. - J. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Office for Citizens with Developmental Disabilities, LR 32:1605 (September 2006), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 40:2585 (December 2014), amended by the Department of Health, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 43:2532 (December 2017), LR 48: LR 48:1575 (June 2022), LR 50:

§5703. Day Habilitation

A. ...

B. Day habilitation is the overarching service and may be delivered in a combination of these two service types:

1. onsite day habilitation; and

2. community life engagement.

NOTE: Day habilitation services may be delivered virtually and be included in the approved plan of care.

3. Repealed.

C. - D. ...

E. Transportation is a separate billable component for day habilitation services. A day habilitation service must be billed on the same day that transportation is billed. Transportation cannot be billed if the service is delivered virtually.

F. Service Limitations. Services shall not exceed the number of units of service as defined in a plan of care year and must have a prior authorization.

G. Restrictions

1. Beneficiaries receiving day habilitation services may also receive other services on the same day but not at the same time of the day.

2. All virtual delivery of day habilitation services must be on an approved plan of care.

H. Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Office for Citizens with Developmental Disabilities, LR 32:1605 (September 2006), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 40:2585 (December 2014), amended by Department of Health, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 48:1576 (June 2022), LR 50:

§5705. Prevocational Services

A. Prevocational services are individualized, person centered services that assist the beneficiaries in establishing their path to obtain individualized community employment. This service is time limited and targeted for people who have an interest in becoming employed in individual jobs in the community, but who may need additional skills, information, and experiences to determine their employment goal and become successfully employed. Beneficiaries receiving prevocational services may choose to leave this service at any time or pursue employment opportunities at any time. Career planning must be a major component of prevocational services and should include activities focused on beneficiaries becoming employed to their highest ability.

B. Prevocational services is the overarching service and may be delivered in a combination of these two service types:

1. onsite prevocational; and

2. community career planning.

NOTE: Prevocational services may be delivered virtually.

3. Repealed.

C. - D. ...

E. Prevocational services may also include assistance in personal care with activities of daily living.

F. Transportation is a separate billable component for prevocational services. A prevocational service must be billed on the same day that transportation is billed. Transportation cannot be billed if the prevocational service is delivered virtually.

G. Service Limitations. Services shall not exceed the number of units of service as defined in a plan of care year and must have a prior authorization.

H. Restrictions

1. Beneficiaries receiving prevocational services may also receive other services on the same day but cannot be provided during the same time of the day.

2. All virtual prevocational services must be included on the approved plan of care.

I. Prevocational services are not available to individuals who are eligible to participate in programs that are available and funded under section 110 of the Rehabilitation Act of 1973 or sections 602 (16) or (17) of the Individuals with Disabilities Education Act [20 U.S.C. 1401 (26 and 29)], as amended, and those covered under the state plan, if applicable.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Office for Citizens with Developmental Disabilities, LR 32:1605 (September 2006), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 40:2585 (December 2014), amended by the Department of Health, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 48:1577 (June 2022), LR 50:

§5707. Respite

A. Respite care is a service provided on a short-term basis to a beneficiary who is unable to care for himself/herself due to the absence or need for relief of those unpaid persons normally providing care for the beneficiary.

B. Respite may be provided in a licensed respite care facility that is determined to be appropriate by the beneficiary or other responsible party, or may be provided in the beneficiary's home or private place of residence.

C. - D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Office for Citizens with Developmental Disabilities, LR 32:1606 (September 2006), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 40:2586 (December 2014), amended by the Department of Health, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 48:1577 (June 2022), LR 50:

§5709. Habilitation

A. Habilitation offers services designed to assist the beneficiary in acquiring, retaining, and improving the self-help, socialization, and adaptive skills necessary to reside successfully in home and community settings.

B. Habilitation is provided in the home or community, includes necessary transportation, and is included on the plan of care as determined to be appropriate.

C. Habilitation services may include, but are not limited to:

1. ...

2. travel training activities in the community that promote community independence, to include but not limited to, place of individual employment, church, or other community activity. This does not include group supported employment, day habilitation, or prevocational sites.

D. - E. ...

F. Beneficiaries receiving habilitation may use this service in conjunction with other supports waiver services as long as other services are not provided during the same period in a day.

NOTE: Beneficiaries who are age 18 through 21 may also receive available services as outlined on their plan of care through the Early Periodic Screening, Diagnosis and

Treatment (EPSDT) Program, if applicable. Beneficiaries who are age 21 and older may receive available services as outlined on their plan of care through the Long-Term Personal Care Services (LT-PCS) Program, if applicable.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Office for Citizens with Developmental Disabilities, LR 32:1606 (September 2006), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 40:2586 (December 2014), amended by the Department of Health, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 48:1577 (June 2022), LR 50:

§5713. Personal Emergency Response System

A. A personal emergency response system (PERS) is an electronic device connected to the beneficiary's phone which enables a beneficiary to secure help in the community. The system is programmed to signal a response center staffed by trained professionals when a "help" button is activated.

B. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Office for Citizens with Developmental Disabilities, LR 32:1607 (September 2006), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 40:2587 (December 2014), amended by the Department of Health, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 48:1578 (June 2022), LR 50:

§5715. Support Coordination

A. Support coordination is a service that will assist beneficiaries in gaining access to all of their necessary services, as well as medical, social, educational, and other services, regardless of the funding source for the services. Support coordinators shall be responsible for on-going monitoring of the provision of services included in the beneficiary's approved plan of care.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Office for Citizens with Developmental Disabilities, LR 34:662 (April 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, Office for Citizens with Developmental Disabilities, LR 40:2587 (December 2014), amended by the Department of Health, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 48:1578 (June 2022), LR 50:

§5717. Housing Stabilization Transition Services

A. Housing stabilization transition services enable beneficiaries who are transitioning into a permanent supportive housing unit, including those transitioning from institutions, to secure their own housing. The service is provided while the beneficiary is in an institution and preparing to exit the institution using the waiver. The service includes the following components:

1. conducting a housing assessment to identify the beneficiary's preferences related to housing (i.e., type, location, living alone or with someone else, need for accommodations, and other important preferences), and his/her needs for support to maintain housing, including:

A.1.a. - C.1. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 40:81 (January 2014), amended by the Department of Health, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 48:1578 (June 2022), LR 50:

§5721. Dental Services

A. - A.10. ...

B. Dental Service Exclusions

1. ...

2. Non-covered services include but are not limited to the following:

a. - e. ...

f. routine post-operative services — these services are covered as part of the fee for initial treatment provided;

B.2.g. - C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 48:1579 (June 2022), LR 50:

§5723. Community Life Engagement Development

A. Community life engagement development (CLED) facilitates the development of opportunities to assist beneficiaries in becoming involved in the community. The purpose of CLED is to find the opportunities that encourage and foster the development of meaningful relationships in the community reflecting the beneficiary's choices and values. Objectives outlined in the comprehensive plan of care will afford opportunities to increase community inclusion, participation in leisure/recreational activities, and encourage participation in volunteer and civic activities. To utilize this service, the beneficiary may or may not be present. CLED services may be performed by a staff person for up to three waiver beneficiaries who have a common provider agency for day services and supports. Rates shall be adjusted accordingly.

B. Transportation costs are included in the reimbursement for CLED services.

C. Service Limitations. Services shall not exceed the number of units as defined in the beneficiary's plan of care and must have a prior authorization.

D. Provider Qualifications. Providers must be licensed by the Department of Health as a home and community-based services provider and must meet the module specific requirements for the service being provided.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 50:

§5725. Specialized Medical Equipment and Supplies

A. Incontinence briefs and supplies are available for a beneficiary, 21 years or older, who has a physician's order and requires the use of incontinence briefs and supplies.

B. Service Restrictions

1. This service is for those who are 21 years of age or older.

2. This service requires a physician's order.

C. Service Limitations

1. The cost cannot exceed \$2,500 in a single plan of care year.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 50:

Chapter 59. Provider Participation

§5901. General Provisions

A. ...

B. If the transportation component for supported employment, day habilitation, and/or prevocational services is provided by the provider, the provider must have insurance coverage that meets current home and community-based services providers licensing standards on any vehicles used in transporting a beneficiary.

C. In addition to meeting the requirements cited in this §5901.A and B, providers must meet the following requirements for the provision of designated services.

1. - 7. ...

8. Specialized Medical Equipment and Supplies. Providers of this service must be enrolled to participate in the Medicaid Program as a provider of assistive technology, specialized medical equipment, and supplies.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Office for Citizens with Developmental Disabilities, LR 32:1607 (September 2006), LR 34:662 (April 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, Office for Citizens with Developmental Disabilities, LR 40:2587 (December 2014), amended by the Department of Health, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 43:2532 (December 2017), amended by the Department of Health, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 43:2532 (December 2017), LR 48:1579 (June 2022), LR 50:

§5903. Electronic Visit Verification

A. ...

B. Reimbursement shall only be made to providers with use of the EVV system. The services that require use of the EVV system include the following: in home respite, center-based respite, habilitation, day habilitation, prevocational services, and supported employment services.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 41:1288 (July 2015), amended by the Department of Health, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 48:1579 (June 2022), LR 50:

Chapter 61. Reimbursement

§6101. Unit of Reimbursement

A. The reimbursement for all services will be paid on a per claim basis. The reimbursement rate covers both service provision and administration. Services which utilize a prospective flat rate of one-quarter hour (15 minutes) will not be paid for the provision of less than one-quarter hour of service.

B. Supported Employment Services. Reimbursement shall be a prospective flat rate for each approved unit of service provided to the beneficiary. A standard unit of service in both individual and group supported employment services is one-quarter hour (15 minutes). A standard unit for individual ongoing follow along and job assessment is a fee for service rate.

C. - J. ...

K. Community Life Engagement Development. Reimbursement shall be a prospective flat rate for each approved unit of service provided to the beneficiary. One-quarter hour (15 minutes) is the standard unit of service.

L. Transportation. Reimbursement shall be a prospective flat rate for each approved unit of service provided to the beneficiary. A standard unit is a daily rate.

M. Specialized Medical Equipment and Supplies. Reimbursement shall be a prospective flat rate for each approved unit of service provided to the beneficiary.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Office for Citizens with Developmental Disabilities, LR 32:1607 (September 2006), amended LR 34:662 (April 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 36:2281 (October 2010), LR 37:2158 (July 2011), LR 39:1050 (April 2013), LR 40:82 (January 2014), LR 40:2587 (December 2014), LR 42:900 (June 2016), amended by the Department of Health, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 48:43 (January 2022), amended by the Department of Health, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 48:43 (January 2022), LR 48:1579 (June 2022), LR 49:1072 (June 2023), LR 50:

Implementation of the provisions of this Rule may be contingent upon the approval of the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS), if it is determined that submission to CMS for review and approval is required.

Family Impact Statement

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed Rule on the family has been considered. It is anticipated that this proposed Rule will have a positive impact on family functioning, stability and autonomy as described in R.S. 49:972, as it may help ease the financial burden on the family budget by providing coverage for transportation and incontinence supplies.

Poverty Impact Statement

In compliance with Act 854 of the 2012 Regular Session of the Louisiana Legislature, the poverty impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will have a positive impact on child, individual, or family poverty in relation to individual or community asset development as described in R.S. 49:973, as it may help ease the financial burden on the family budget by providing coverage for transportation and incontinence supplies.

Small Business Analysis

In compliance with the Small Business Protection Act, the economic impact of this proposed Rule on small businesses has been considered. It is anticipated that this proposed Rule may have a positive impact on small businesses, since it

provides reimbursement for new services added to the Supports Waiver.

Provider Impact Statement

In compliance with House Concurrent Resolution (HCR) 170 of the 2014 Regular Session of the Louisiana Legislature, the provider impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will have no impact on the staffing level requirements or qualifications required to provide the same level of service, but may reduce the total direct or indirect cost to the provider to provide the same level of service, and may enhance the provider's ability to provide the same level of service as described in HCR 170 since it provides reimbursement for new services added to the Supports Waiver.

Public Comments

Interested persons may submit written comments to Kimberly Sullivan, JD, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. Ms. Sullivan, JD is responsible for responding to inquiries regarding this proposed Rule. The deadline for submitting written comments is at 4:30 p.m. on November 29, 2023.

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 4:30 p.m. on November 9, 2023. If the criteria set forth in R.S. 49:961(B)(1) are satisfied, LDH will conduct a public hearing at 9:30 a.m. on November 28, 2023 in Room 118 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 November 9, 2023. 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.

Stephen R. Russo, JD
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Home and Community-Based Services Waivers—Supports Waiver

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

It is anticipated that implementation of this proposed rule will result in increased state costs of approximately \$1,508,215 for FY 23-24, \$1,615,212 for FY 24-25, and \$1,696,270 for FY 25-26. It is anticipated that \$2,700 (\$1,350 SGF and \$1,350 FED) will be expended in FY 23-24 for the state's administrative expense for promulgation of this proposed rule and the final rule.

This proposed rule amends the provisions governing the Supports Waiver to: 1) add specialized medical equipment and supplies (incontinence supplies) and community life engagement development as services, and transportation as a separate service; 2) add reimbursement for each new service; and 3) allow prevocational services to be delivered virtually in order to align the administrative rule with the waiver

application approved by the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services.

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

It is anticipated that implementation of this proposed rule will increase federal revenue collections by approximately \$3,288,836 for FY 23-24, \$3,419,738 for FY 24-25, and \$3,591,354 for FY 25-26. It is anticipated that \$1,350 will be collected in FY 23-24 for the federal share of the expense for promulgation of this proposed rule and the final rule.

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

This proposed rule amends the provisions governing the Supports Waiver to: 1) add specialized medical equipment and supplies (incontinence supplies) and community life engagement development as services, and transportation as a separate service; 2) add reimbursement for each new service; and 3) allow prevocational services to be delivered virtually in order to align the administrative rule with the waiver application approved by the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services. This proposed rule may ease the financial burden on Supports Waiver beneficiaries and their families by providing Medicaid coverage for transportation and incontinence supplies. Providers and small businesses will benefit from implementation of this proposed rule, since it is anticipated to increase Medicaid payments for Supports Waiver services by approximately \$4,797,051 for FY 23-24, \$5,034,950 for FY 24-25, and \$5,287,624 for FY 25-26.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This rule has no known effect on competition and employment.

Kimberly Sullivan, JD
Interim Medicaid Executive Director
2310#046

Patrice Thomas
Deputy Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Health
Bureau of Health Services Financing**

Home Health Program
American Rescue Plan Act
(LAC 50:XIII.801)

The Department of Health, Bureau of Health Services Financing proposes to amend LAC 50:XIII.801 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This proposed Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

The U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS) approved the Department of Health's administration and payment model for funds provided under section 9817 of the American Rescue Plan Act of 2021 (ARPA) to agencies that provide home health care services. In compliance with the CMS-approved model for administering ARPA funds, the Department of Health, Bureau of Health Services Financing adopted provisions governing ARPA funding in the Home Health Program in order to establish recruitment and retention payments for nurses that provide extended home health services to beneficiaries under the age of 21 who are

in a Medicaid waiver program (*Louisiana Register*, Volume 49, Number 5). The department now proposes to amend the provisions governing nursing recruitment and retention payments in the Home Health Program as a result of the decision by CMS to continue to provide funding under ARPA through March 2025.

Title 50

PUBLIC HEALTH-GENERAL

Part XIII. Home Health Program

Subpart 1. Home Health Services

Chapter 8. American Rescue Plan Act Funding

§801. Nursing Recruitment and Retention Payments

A. General Provisions

1. Nurses that provide extended home health (EHH) services may be eligible to receive recruitment and retention bonuses through March 2025.

2. - 4. ...

5. HHAs shall disburse the entire payment to the nurse and are prohibited from reducing the payment for any purpose other than required state or federal withholdings.

A.6. - C.2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 49:875 (May 2023), amended LR 50:

Implementation of the provisions of this Rule may be contingent upon the approval of the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS), if it is determined that submission to CMS for review and approval is required.

Family Impact Statement

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed Rule on the family has been considered. It is anticipated that this proposed Rule may have a positive impact on family functioning, stability and autonomy as described in R.S. 49:972, by reducing the waiting time needed to receive extended home health services, thereby, increasing the percentage of prior authorized nursing hours that are filled.

Poverty Impact Statement

In compliance with Act 854 of the 2012 Regular Session of the Louisiana Legislature, the poverty impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will have no impact on child, individual, or family poverty in relation to individual or community asset development as described in R.S. 49:973.

Small Business Analysis

In compliance with the Small Business Protection Act, the economic impact of this proposed Rule on small businesses has been considered. It is anticipated that this proposed Rule may have a positive impact on small businesses, since the additional financial support may increase the hiring ability of home health agencies.

Provider Impact Statement

In compliance with House Concurrent Resolution (HCR) 170 of the 2014 Regular Session of the Louisiana Legislature, the provider impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will have no impact on the staffing level requirements or qualifications required to provide the same level of service, no direct and indirect cost to the provider to provide the same level of service, but may have a positive impact on the

provider's ability to provide the same level of service as described in HCR 170, since this proposed Rule provides additional financial support which may increase the hiring ability of home health agencies.

Public Comments

Interested persons may submit written comments to Kimberly Sullivan, JD, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. Ms. Sullivan is responsible for responding to inquiries regarding this proposed Rule. The deadline for submitting written comments is at 4:30 p.m. on November 29, 2023.

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 4:30 p.m. on November 9, 2023. If the criteria set forth in R.S. 49:961(B)(1) are satisfied, LDH will conduct a public hearing at 9:30 a.m. on November 28, 2023 in Room 118 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 November 9, 2023. 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.

Stephen R. Russo, JD
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Home Health Program American Rescue Plan Act

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

It is anticipated that implementation of this proposed rule will result in estimated programmatic costs of approximately \$961,020 for FY 23-24 and \$2,883,750 for FY 24-25. It is anticipated that \$540 (\$270 SGF and \$270 FED) will be expended in FY 23-24 for the state's administrative expense for promulgation of this proposed and final rule.

This proposed rule amends the provisions in the Home Health Program governing recruitment and retention payments funded under the American Rescue Plan Act of 2021 (ARPA) for nurses that provide extended home health services to beneficiaries under the age of 21 who are in a Medicaid waiver program. These payments were due to expire in April 2024; however, the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services made the decision to extend the funding for these services under ARPA through March 2025.

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

It is anticipated that implementation of this proposed rule will increase federal revenue collections by approximately \$961,020 for FY 23-24 and \$2,883,750 for FY 24-25. It is anticipated that \$270 will be collected for the federal share of the expense for promulgation of the proposed and final rule.

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

This proposed rule amends the provisions in the Home Health Program governing recruitment and retention payments funded under the American Rescue Plan Act of 2021 (ARPA) for nurses that provide extended home health services to beneficiaries under the age of 21 who are in a Medicaid waiver program. These payments were due to expire in April 2024; however, the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services made the decision to extend the funding for these services under ARPA through March 2025. This proposed rule continues the administrative fee home health agencies receive to make recruitment and retention payments to nurses which may reduce the beneficiaries' waiting time to receive extended home health services and increase the percentage of prior authorized nursing hours that are filled. Implementation of this proposed rule is anticipated to increase expenditures for home health services by approximately \$1,921,500 for FY 23-24 and \$5,767,500 for FY 24-25.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This proposed rule continues the administrative fee provided under ARPA to home health agencies for recruitment and retention payments to nurses that provide extended home health services to pediatric Medicaid waiver participants, which will make it easier to hire and retain nurses to provide these services.

Kimberly Sullivan, JD
Interim Medicaid Executive Director
2310#047

Patrice Thomas
Deputy Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

Department of Health Bureau of Health Services Financing

Medicaid Eligibility
Incurred Medical and Remedial Care Expenses
(LAC 50:III.941)

The Department of Health, Bureau of Health Services Financing proposes to adopt LAC 50:III.941 as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This proposed Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

Title 42 of the Code of Federal Regulations Part 435 Subparts H and I requires that income assessments of individuals who are institutionalized and enrolled in Medicaid or receiving home and community-based services furnished under a waiver must deduct certain medical and remedial care expenses incurred for their care, subject to the reasonable limits, from the individual's income in the calculation of patient liability to the institution. In compliance with 42 C.F.R. Part 435 Subparts H and I, the Department of Health, Bureau of Health Services Financing, proposes to adopt provisions governing incurred medical and remedial care expenses in the determination of financial eligibility for the Medical Assistance Program in order to deduct expenses incurred for necessary medical and remedial care, subject to the reasonable limits, from the individual's income when calculating patient liability to an institution and to limit the time institutions have to report these expenses.

Title 50
PUBLIC HEALTH—MEDICAL ASSISTANCE

Part III. Eligibility

Subpart 1. General Administration

Chapter 9. Financial Eligibility

Subchapter D. Incurred Medical

§941. Incurred Medical and Remedial Care Expenses

A. In accordance with 42 C.F.R. Part 435 Subparts H and I, certain medical and remedial care expenses incurred by institutionalized individuals and individuals receiving home and community-based services furnished under a waiver, subject to the reasonable limits specified herein, are deducted from the individual's income in the calculation of patient liability.

B. Reasonable limits imposed are:

1. For medically necessary care, services, and items not paid under the Medicaid State Plan or, if covered under the Medicaid State Plan, denied due to service limitations.

a. The medical or remedial care must be:

- i. recognized under state law;
- ii. medically necessary as verified by an independent licensed physician or medical director; and
- iii. incurred no earlier than three months preceding the month in which it is reported to the state; and

b. The medical or remedial care cannot be:

i. for cosmetic or elective purposes, except when medically necessary as verified by an independent licensed physician or medical director; and/or

ii. for payment of a medical or dental service plan that has not been approved by the Department of Insurance in accordance with the Louisiana Insurance Code, Title 22 of the *Louisiana Revised Statutes*.

2. The deduction for medical and remedial care expenses that were incurred as a result of imposition of transfer of assets penalty period is limited to \$0.

3. The deduction for medical and remedial care expenses that were incurred as a result of the individual's equity interest in the home exceeding the limit established under 42 U.S.C. §139p(f) is limited to \$0.

4. The deduction for medical or remedial care expenses that were incurred during a period when the individual is not subject to patient liability is limited to \$0.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 50:

Implementation of the provisions of this Rule may be contingent upon the approval of the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS), if it is determined that submission to CMS for review and approval is required.

Family Impact Statement

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed Rule on the family has been considered. It is anticipated that this proposed Rule may have a negative impact on family functioning, stability and autonomy as described in R.S. 49:972 as it may result in some incurred medical and

remedial care expenses not being submitted by providers in a timely enough manner to be deducted from the patient's liability calculation.

Poverty Impact Statement

In compliance with Act 854 of the 2012 Regular Session of the Louisiana Legislature, the poverty impact of this proposed Rule has been considered. It is anticipated that this proposed Rule may have a negative impact on child, individual, or family poverty in relation to individual or community asset development as described in R.S. 49:973 as it may result in some incurred medical and remedial care expenses not being submitted by providers in a timely enough manner to be deducted from the patient's liability calculation.

Small Business Analysis

In compliance with the Small Business Protection Act, the economic impact of this proposed Rule on small businesses has been considered. It is anticipated that this proposed Rule will have no impact on small businesses.

Provider Impact Statement

In compliance with House Concurrent Resolution (HCR) 170 of the 2014 Regular Session of the Louisiana Legislature, the provider impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will have no impact on the staffing level requirements or qualifications required to provide the same level of service, no direct or indirect cost to the provider to provide the same level of service, and will have no impact on the provider's ability to provide the same level of service as described in HCR 170.

Public Comments

Interested persons may submit written comments to Kimberly Sullivan, JD, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. Ms. Sullivan is responsible for responding to inquiries regarding this proposed Rule. The deadline for submitting written comments is at 4:30 p.m. on November 29, 2023.

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 4:30 p.m. on November 9, 2023. If the criteria set forth in R.S. 49:953(A)(2)(a) are satisfied, LDH will conduct a public hearing at 9:30 a.m. on November 28, 2023 in Room 118 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 November 9, 2023. 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.

Stephen R. Russo, JD
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Medicaid Eligibility
Incurred Medical and Remedial Care Expenses**

**NOTICE OF INTENT
Department of Health
Bureau of Health Services Financing**

Medical Transportation Program
Emergency Medical Transportation
(LAC 50:XXVII.Chapter 3)

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

It is anticipated that implementation of this proposed rule may have an indeterminable savings for FY 23-24, FY 24-25, and FY 25-26. It is anticipated that \$648 (\$324 SGF and \$324 FED) will be expended in FY 23-24 for the state's administrative expense for promulgation of this proposed rule and the final rule.

This proposed rule adopts provisions governing incurred medical and remedial care expenses for beneficiaries who are institutionalized and enrolled in Medicaid or receiving home and community-based services furnished under a waiver in order to deduct certain medical and remedial care expenses incurred for their care, subject to the reasonable limits, from the individual's income in the calculation of patient liability to an institution, in compliance with Title 42 of the Code of Federal Regulations Part 435 Subparts H and I, and to limit the amount of time institutions have to report these expenses to three months after they occurred.

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

Implementation of this proposed rule may result in an indeterminable reduction on revenue collections for FY 23-24, FY 24-25, and FY 25-26. It is anticipated that \$324 will be collected in FY 23-24 for the federal share of the expense for promulgation of this proposed rule and the final rule.

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

This proposed rule adopts provisions governing incurred medical and remedial care expenses for beneficiaries who are institutionalized and enrolled in Medicaid or receiving home and community-based services furnished under a waiver in order to deduct certain medical and remedial care expenses incurred for their care, subject to the reasonable limits, from the individual's income in the calculation of patient liability to an institution, in compliance with Title 42 of the Code of Federal Regulations Part 435 Subparts H and I, and to limit the amount of time institutions have to report these expenses to three months after they occurred. This proposed rule will impact beneficiaries if some medical and remedial care expenses are not reported in a timely manner and are not deducted from the patient's liability calculation. Providers will also be impacted since they will now have a three-month time limit for reporting expenses to Medicaid. Implementation of this proposed rule will have no fiscal impact to providers or small businesses, but the timely deduction of incurred medical expenses may result in an indeterminable savings to the Medicaid program for FY 23-24, FY 24-25, and FY 25-26.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This rule has no known effect on competition and employment.

Kimberly Sullivan, JD
Interim Medicaid Executive Director
2310#048

Patrice Thomas
Deputy Fiscal Officer
Legislative Fiscal Office

The Department of Health, Bureau of Health Services Financing proposes to amend LAC 50:XXVII.Chapter 3 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This proposed Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

The U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS) requires reimbursement for emergency ambulance services to transition from the Full Medicaid Pricing program to an approved federal supplemental payment program by July 1, 2023. The Department of Health, Bureau of Health Services Financing promulgated an Emergency Rule which amended the provisions governing reimbursement in the Medical Transportation Program in order to align the reimbursement rates established for emergency ambulance services and providers with current practice for Medicaid managed care and fee-for-service (*Louisiana Register*, Volume 49, Number 5). The department subsequently promulgated a Notice of Intent to continue the provisions of the July 1, 2023 Emergency Rule (*Louisiana Register*, Volume 49, Number 6). After further discussion with various stakeholders, the department determined that it was necessary to abandon the June 20, 2023 Notice of Intent and promulgated an Emergency Rule in order to amend the provisions of the July 1, 2023 Emergency Rule (*Louisiana Register*, Volume 49, Number 10). This proposed Rule is being promulgated to continue the provisions of the July 1, 2023 and September 11, 2023 Emergency Rules.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part XXVII. Medical Transportation Program

Chapter 3. Emergency Medical Transportation

Subchapter A. Reserved.

Subchapter B. Ground Transportation

§325. Reimbursement

A. The Medicaid reimbursement for ground ambulance services is the rate established in the state fee schedule for emergency ambulance transport, basic life support, advanced life support and mileage, oxygen, intravenous fluids, and disposable supplies administered during the emergency ambulance transport minus the amount paid by any liable third party coverage.

B. - J. ...

K. Effective for dates of service on or after July 1, 2023, the reimbursement rates for emergency ground ambulance transportation services shall be reimbursed based on the Louisiana Medicaid fee schedule.

EXCEPTION: Except as otherwise noted in the plan, state-developed fee schedule rates are established separately for governmental, New Orleans-based governmental, and private providers of ambulance transportation services to account for cost variability across these provider types and to maintain access to care through alignment with historic payment levels.

1. The agency's fee schedule rate, set as of July 1, 2023, is effective for services provided on or after that date. All rates are published on the agency's website at: <https://www.lamedicaid.com>.

2. The fee schedule was established as a function of historical rates in effect as of January 1, 2023 plus an enhancement which was calculated to achieve total fee schedule reimbursement as a percentage of average commercial rates (ACR), with the clarifications listed within Subparagraph a through c below:

a. governmental ambulance providers include those ambulance providers who are owned or operated by a public organization such as state, federal, parish, or city entities;

b. New Orleans-based governmental ambulance providers include ambulance providers located within the city of New Orleans; and

c. private ambulance transportation providers include corporations, limited liability companies, partnerships, or sole proprietors. Private providers must comply with all state laws and the regulations of any governing state agency, commission, or local entity to which they are subject as a condition of enrollment and continued participation in the Medicaid program.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:878 (May 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 36:1248 (June 2010), LR 36:2564 (November 2010), LR 37:3029 (October 2011), LR 39:1285 (May 2013), LR 40:1379 (July 2014), amended by the Department of Health, Bureau of Health Services Financing, LR 50:

§327. Supplemental Payments for Ambulance Providers

A. Effective for dates of service on or after September 20, 2011, quarterly supplemental payments shall be issued to qualifying ambulance providers for emergency medical transportation services rendered during the quarter if the department has received an appropriation from the legislature for these payments.

B. - H. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 40:1530 (August 2014), amended by the Department of Health, Bureau of Health Services Financing, LR 50:

§331. Enhanced Reimbursements for Qualifying Emergency Ground Ambulance Service Providers

A. Emergency Medical Transportation

1. Qualifying emergency ambulance service providers assessed a fee as outlined in LAC 48:I.4001.E.1.a-b shall receive enhanced reimbursement for emergency ground ambulance transportation services rendered during the quarter through the Supplemental Payment Program described in the Medicaid State Plan if the department has

received an appropriation from the legislature for these payments.

2. Effective for dates of service on or after July 1, 2019, qualifying emergency ambulance service providers assessed a fee as outlined in LAC 48:I.4001.E.1.a-d shall receive enhanced reimbursement for non-emergency ground ambulance transportation services rendered during the quarter through the Supplemental Payment Program described in the Medicaid State Plan if the department has received an appropriation from the legislature for these payments.

B. - E.1. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 42:1890 (November 2016), amended LR 45:1598 (November 2019), LR 50:

Subchapter C. Aircraft Transportation §351. Standards for Participation

A. Rotor winged (helicopters) and fixed winged emergency aircraft must be certified by the Department of Health, Bureau of Health Services Financing in order to receive Medicaid reimbursement. All air ambulance services must be provided in accordance with state laws and regulations governing the administration of these services.

B. ...

C. Prior Approval. Prior approval shall not be required for emergency air ambulance transportation services, including mileage. Approval shall be done during post payment review and shall not be completed prior to service delivery. Claims for payment of emergency air ambulance transportation services are received and reviewed retrospectively. The clinical documentation for each emergency air ambulance transportation service shall not be required for submission concurrent with the claim. If required, clinical documentation shall be required post claim submission.

1. Air ambulance claims will be reviewed and a determination will be made based on the following requirements. Air ambulance services are covered only if:

a. speedy admission of the beneficiary is essential and the point of pick-up of the beneficiary is inaccessible by a land vehicle; or

b. great distance or other obstacles are involved in getting the beneficiary to the nearest hospital with appropriate services.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 35:70 (January 2009), amended by the Department of Health, Bureau of Health Services Financing, LR 50:

§353. Reimbursement

A. - B. ...

C. If a ground ambulance must be used for part of the transport, the ground ambulance provider will be reimbursed separately according to the provisions governing emergency ground transportation.

D. - I.2. ...

J. The reimbursement rates for emergency and non-emergency, rotor winged and fixed winged air ambulance transportation services shall be reimbursed based on the

Louisiana Medicaid fee schedule. These rates include both in state and out-of-state air ambulance transportation. The agency's fee schedule rate was set as of January 1, 2022 and is effective for services provided on or after that date. All rates are published on the agency's website at: <https://www.lamedicaid.com>.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 35:70 (January 2009), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 36:2564 (November 2010), amended LR 37:3029 (October 2011), LR 39:1285 (May 2013), LR 40:1379 (July 2014), LR 42:277 (February 2016), amended by the Department of Health, Bureau of Health Service Financing, LR 50:

§355. Supplemental Payments for Ambulance Providers

A. Effective for dates of service on or after September 20, 2011, quarterly supplemental payments shall be issued to qualifying ambulance providers for emergency medical air transportation services rendered during the quarter if the department has received an appropriation from the legislature for these payments.

B. - H. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 40:1531 (August 2014), amended by the Department of Health, Bureau of Health Services Financing, LR 50:

Implementation of the provisions of this Rule may be contingent upon the approval of the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS), if it is determined that submission to CMS for review and approval is required.

Family Impact Statement

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed Rule on the family has been considered. It is anticipated that this proposed Rule will have no impact on family functioning, stability and autonomy as described in R.S. 49:972.

Poverty Impact Statement

In compliance with Act 854 of the 2012 Regular Session of the Louisiana Legislature, the poverty impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will have no impact on child, individual, or family poverty in relation to individual or community asset development as described in R.S. 49:973.

Small Business Analysis

In compliance with the Small Business Protection Act, the economic impact of this proposed Rule on small businesses has been considered. It is anticipated that this proposed Rule will have no impact on small businesses.

Provider Impact Statement

In compliance with House Concurrent Resolution (HCR) 170 of the 2014 Regular Session of the Louisiana Legislature, the provider impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will have no impact on the staffing level requirements or qualifications required to provide the same level of service, no direct or indirect cost to the provider to provide the same

level of service, and will have no impact on the provider's ability to provide the same level of service as described in HCR 170.

Public Comments

Interested persons may submit written comments to Kimberly Sullivan, JD, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. Ms. Sullivan is responsible for responding to inquiries regarding this proposed Rule. The deadline for submitting written comments is at 4:30 p.m. on November 29, 2023.

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 4:30 p.m. on November 9, 2023. If the criteria set forth in R.S. 49:961(B)(1) are satisfied, LDH will conduct a public hearing at 9:30 a.m. on November 28, 2023 in Room 118 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 November 9, 2023. 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.

Stephen R. Russo, JD
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Medical Transportation Program Emergency Medical Transportation

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

It is anticipated that implementation of this proposed rule will have no programmatic fiscal impact to the state other than the cost of promulgation for FY 23-24. It is anticipated that \$1,188 (\$594 SGF and \$594 FED) will be expended in FY 23-24 for the state's administrative expense for promulgation of this proposed rule and the final rule.

This proposed rule continues Emergency Rule provisions and is necessary to comply with the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS) requirement that reimbursement for emergency ambulance services transition from the Full Medicaid Pricing program to an approved federal supplemental payment program.

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

It is anticipated that the implementation of this proposed rule will have no effect on revenue collections other than the federal share of the promulgation costs for FY 23-24. It is anticipated that \$594 will be collected in FY 23-24 for the federal share of the expense for promulgation of this proposed rule and the final rule.

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

The Department of Health promulgated an Emergency Rule and published a Notice of Intent in the June 20, 2023 edition of the Louisiana Register, which amended the provisions governing reimbursement in the Medical Transportation

Program effective July 1, 2023 in order to align the reimbursement rates established for emergency ambulance services and providers with current practice for Medicaid managed care and fee-for-service. However, after further discussions with stakeholders, the Department decided not to proceed with the June 2023 Notice of Intent and to issue an amended Emergency Rule on September 11, 2023. This proposed rule continues the emergency provisions and is necessary to comply with the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS) requirement that reimbursement for these services transition from the Full Medicaid Pricing program to an approved federal supplemental payment program. Implementation of this proposed rule is not anticipated to result in costs or benefits to emergency medical transportation providers or small businesses and will not result in a fiscal impact in FY 23-24, FY 24-25, and FY 25-26.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This rule has no known effect on competition and employment.

Kimberly Sullivan, JD
Interim Medicaid Executive Director
2310#049

Patrice Thomas
Deputy Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT
Department of Health
Bureau of Health Services Financing

Medical Transportation Program
Non-Emergency Medical Transportation
American Rescue Plan Act
(LAC 50:XXVII.531)

The Department of Health, Bureau of Health Services Financing proposes to amend LAC 50:XXVII.531 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This proposed Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

The U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS) approved the use of funds provided under the American Rescue Plan Act of 2021 (ARPA) for bonus payments to providers of non-emergency medical transportation (NEMT) services. The Department of Health, Bureau of Health Services Financing adopted provisions in the Medical Transportation Program in order to establish guidelines for the administration and distribution of ARPA bonus payment funds to eligible NEMT providers (*Louisiana Register*, Volume 49, Number 5). The department promulgated an Emergency Rule which amended the provisions governing ARPA bonus payments in order to establish the guidelines that will be utilized to oversee the administration and distribution of ARPA bonus payment funds to eligible NEMT providers by the Medicaid managed care organizations (*Louisiana Register*, Volume 49, Number 10). This proposed Rule is being promulgated to continue the provisions of the December 1, 2023 Emergency Rule.

Title 50

PUBLIC HEALTH—GENERAL

Part XXVII. Medical Transportation Program

Chapter 5. Non-Emergency Medical Transportation
Subchapter E. Non-Emergency Medical Transportation
American Rescue Plan Act

§531. Non-Emergency Medical Transportation Bonus Payments

A. ...

1. Non-emergency medical transportation (NEMT) providers that are fully credentialed in the Medicaid Program may be eligible to receive a bonus payment under the Department of Health's (LDH) American Rescue Plan Act (ARPA) NEMT Program until the program's federal funds are exhausted or through the conclusion of the program.

2. Fully credentialed NEMT providers who meet all eligibility requirements are entitled to a monthly disbursement of \$500 per vehicle, for up to three vehicles per month, totaling a maximum payment of \$1,500 per month per transportation provider. The managed care organization (MCO) will determine eligibility for monthly payments based on the NEMT provider's ongoing compliance for all provider, driver, and vehicle requirements set forth by the Medicaid Program and the LDH ARPA NEMT Program.

3. ...

4. The MCO will provide a weekly report to LDH containing all newly acquired NEMT providers. LDH will assign each active NEMT provider to an affiliated MCO.

5. The MCO will administer all payments for the LDH ARPA NEMT Program.

a. - e. Repealed.

6. In order to receive payments under the LDH ARPA NEMT Program, the NEMT provider shall do the following:

a. accede to all provisions of the LDH ARPA NEMT Program and execute a contractual agreement with the MCO, solely for the distribution of ARPA funds;

b. maintain ongoing compliance for all provider, driver, and vehicle requirements set forth by the Medicaid Program;

c. submit reporting and credentialing documentation for all drivers and vehicles within their individual company used for NEMT services on a monthly basis. Failure to meet both LDH and the MCO's time requirements shall result in loss of the monthly bonus payment; and

d. submit a monthly attestation to the MCO which certifies the accuracy of the submitted supporting and credentialing documentation.

7. NEMT services are ineligible and shall not be submitted as a completed service if the status of the NEMT service rendered results in one of the following:

a. the provider is a no-show;

b. no NEMT vehicle is available;

c. no NEMT driver is available; or

d. the NEMT provider is late which causes the beneficiary to miss his or her scheduled Medicaid covered service.

B. - B.1. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 49:877 (May 2023), amended by the Department of Health, Bureau of Health Services Financing, LR 50:

Implementation of the provisions of this Rule may be contingent upon the approval of the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS), if it is determined that submission to CMS for review and approval is required.

Family Impact Statement

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed Rule on the family has been considered. It is anticipated that this proposed Rule will have no impact on family functioning, stability or autonomy as described in R.S. 49:972.

Poverty Impact Statement

In compliance with Act 854 of the 2012 Regular Session of the Louisiana Legislature, the poverty impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will have no impact on child, individual or family poverty in relation to individual or community asset development as described in R.S. 49:973.

Small Business Analysis

In compliance with the Small Business Protection Act, the economic impact of this proposed Rule on small businesses has been considered. It is anticipated that this proposed Rule will have a positive impact on small businesses as it increases reimbursement to eligible non-emergency medical transportation providers.

Provider Impact Statement

In compliance with House Concurrent Resolution (HCR) 170 of the 2014 Regular Session of the Louisiana Legislature, the provider impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will have no impact on the staffing level requirements or qualifications required to provide the same level of service, but may reduce the total direct and indirect cost to the provider to provide the same level of service, and may enhance the provider's ability to provide the same level of service as described in HCR 170 since this proposed Rule increases payments to providers for the services they already render.

Public Comments

Interested persons may submit written comments to Kimberly Sullivan, JD, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. Ms. Sullivan is responsible for responding to inquiries regarding this proposed Rule. The deadline for submitting written comments is at 4:30 p.m. on November 29, 2023.

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 4:30 p.m. on November 9, 2023. If the criteria set forth in R.S. 49:953(A)(2)(a) are satisfied, LDH will conduct a public hearing at 9:30 a.m. on November 28, 2023 in Room 118 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 November 9, 2023. 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.

Stephen R. Russo, JD
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Medical Transportation Program Non-Emergency Medical Transportation American Rescue Plan Act

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

It is anticipated that implementation of this proposed rule will result in increased state costs of approximately \$892,978 for FY 23-24 and \$1,083,315 for FY 24-25. It is anticipated that \$864 (\$432 SGF and \$432 FED) will be expended in FY 23-24 for the state's administrative expense for promulgation of this proposed rule and the final rule.

This proposed rule continues the provisions of the December 1, 2023 Emergency Rule, which amended the provisions in the Medical Transportation Program governing bonus payments to providers of non-emergency medical transportation (NEMT) services in order to establish the guidelines the department will utilize to oversee the administration and distribution of American Rescue Plan Act (ARPA) bonus payment funds to eligible NEMT providers by the Medicaid managed care organizations (MCOs).

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

It is anticipated that the implementation of this proposed rule will increase federal revenue collections by approximately \$1,908,470 for FY 23-24 and \$2,315,853 for FY 24-25. It is anticipated that \$432 will be collected in FY 23-24 for the federal share of the expense for promulgation of this proposed rule and the final rule.

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

This proposed rule continues the provisions of the December 1, 2023 Emergency Rule, which amended the provisions in the Medical Transportation Program governing bonus payments to providers of non-emergency medical transportation (NEMT) services in order to establish the guidelines the department will utilize to oversee the administration and distribution of American Rescue Plan Act (ARPA) bonus payment funds to eligible NEMT providers by the Medicaid managed care organizations (MCOs). This proposed rule will ensure that the ARPA bonus payments are made appropriately to eligible NEMT providers by the MCOs and that these providers continue rendering services to Medicaid beneficiaries. Implementation of this proposed rule is anticipated to increase expenditures for NEMT services by approximately \$2,800,584 for FY 23-24 and \$3,399,168 for FY 24-25.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This rule has no known effect on competition and employment.

Kimberly Sullivan, JD
Interim Medicaid Executive Director
2310#050

Patrice Thomas
Deputy Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

Department of Health Bureau of Health Services Financing

Nursing Facilities
Optional State Assessment
(LAC 50:II.10123 and 20001)

The Department of Health, Bureau of Health Services Financing proposes to amend LAC 50:II.10123 and §20001 in the Medical Assistance Program as authorized by R.S. 36:254 and R.S. 46:2742 and pursuant to Title XIX of the Social Security Act. This proposed Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

Due to the Coronavirus Disease 2019 (COVID-19) public health emergency, the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS) delayed the requirement for states to transition from the current resource utilization group (RUG-III/RUG-IV) case-mix classification model used under the Medicare skilled nursing facility prospective payment system to the patient driven payment model until October 1, 2023. In compliance with CMS requirements, the Department of Health, Bureau of Health Services Financing promulgated an Emergency Rule which amended the provisions governing the standards for payment and reimbursement for nursing facilities in order to implement the patient driven payment model for case-mix classification and mandate use of the optional state assessment item set (*Louisiana Register*, Volume 49, Number 10). This proposed Rule is being promulgated to continue the provisions of the October 1, 2023 Emergency Rule.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part II. Nursing Facilities

Subpart 3. Standards for Payment

Chapter 101. Standards for Payment for Nursing Facilities

Subchapter D. Resident Care Services

§10123. Comprehensive Assessment

A. - G.4.c. ...

H. Effective for assessments with assessment reference dates of October 1, 2023 and after, the department mandates the use of the optional state assessment (OSA) item set. The OSA item set is required to be completed in conjunction with each assessment and at each assessment interval detailed within this Section. The OSA item set must have an assessment reference date that is identical to that of the assessment it was performed in conjunction with.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:153 and R.S. 46:2742.

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 by the Department of Health, Bureau of Health Services Financing, LR 46:695 (May 2020), LR 46:1684 (December 2020), LR 50:

Subpart 5. Reimbursement

Chapter 200. Reimbursement Methodology

§20001. General Provisions

A. Definitions

Minimum Data Set (MDS)—a core set of screening and assessment data, including common definitions and coding categories that form the foundation of the comprehensive assessment for all residents of long-term care nursing facility providers certified to participate in the Medicaid Program. The items in the MDS standardize communication about resident problems, strengths, and conditions within nursing facility providers, between nursing facility providers, and between nursing facility providers and outside agencies. The Louisiana system will employ the current required MDS assessment as approved by the Centers for Medicare and Medicaid Services (CMS), or as mandated by the Department of Health through the use of the optional state assessment (OSA).

Optional State Assessment (OSA)—assessment required by Louisiana Medicaid to report on Medicaid-covered stays. Allows nursing facility providers using RUG-III or RUG-IV models as the basis for Medicaid payment to do so until the legacy payment model (RUG-III) ends.

Patient Driven Payment Model (PDPM)—the proposed new Medicare payment rule for skilled nursing facilities. The PDPM identifies and adjusts different case-mix components for the varied needs and characteristics of a resident's care and then combines these with a non-case-mix component to determine the full skilled nursing facilities (SNF) prospective payment system (PPS) per diem rate for that resident.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254, R.S. 46:2742, and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 28:1473 (June 2002), repromulgated LR 28:1790 (August 2002), amended LR 28:2537 (December 2002), LR 32:2262 (December 2006), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:825 (March 2012), amended by the Department of Health, Bureau of Health Services Financing, LR 42:1522 (September 2016), LR 43:525 (March 2017), LR 43:2187 (November 2017), LR 46:695 (May 2020), LR 46:1684 (December 2020), LR 50:

Implementation of the provisions of this Rule may be contingent upon the approval of the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS), if it is determined that submission to CMS for review and approval is required.

Family Impact Statement

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed Rule on the family has been considered. It is anticipated that this proposed Rule will have no impact on family functioning, stability and autonomy as described in R.S. 49:972.

Poverty Impact Statement

In compliance with Act 854 of the 2012 Regular Session of the Louisiana Legislature, the poverty impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will have no impact on child, individual, or family poverty in relation to individual or community asset development as described in R.S. 49:973.

Small Business Analysis

In compliance with the Small Business Protection Act, the economic impact of this proposed Rule on small businesses has been considered. It is anticipated that this proposed Rule will have no impact on small businesses.

Provider Impact Statement

In compliance with House Concurrent Resolution (HCR) 170 of the 2014 Regular Session of the Louisiana Legislature, the provider impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will have no impact on the staffing level requirements or qualifications required to provide the same level of service, no direct or indirect cost to the provider to provide the same level of service, and will have no impact on the provider's ability to provide the same level of service as described in HCR 170.

Public Comments

Interested persons may submit written comments to Kimberly Sullivan, JD, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. Ms. Sullivan is responsible for responding to inquiries regarding this proposed Rule. The deadline for submitting written comments is at 4:30 p.m. on November 29, 2023.

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 4:30 p.m. on November 9, 2023. If the criteria set forth in R.S. 49:953(A)(2)(a) are satisfied, LDH will conduct a public hearing at 9:30 a.m. on November 28, 2023 in Room 118 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 November 9, 2023. 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.

Stephen R. Russo, JD
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Nursing Facilities Optional State Assessment

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

It is anticipated of this proposed rule will have no programmatic fiscal impact to the state other than the cost of promulgation for FY 23-24. It is anticipated that \$756 (\$378 SGF and \$378 FED) will be expended in FY 23-24 for the state's administrative expense for promulgation of this proposed rule and the final rule.

This proposed rule continues the provisions of the October 1, 2023 Emergency Rule, which amended the standards for payment and reimbursement for nursing facilities in order to implement the required transition from the current RUG-III/RUG-IV case-mix classification model used under the

Medicare skilled nursing facility prospective payment system to the patient driven payment model (PDPM) which was delayed by the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS) until October 1, 2023 due to the COVID-19 public health emergency.

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

It is anticipated that the implementation of this proposed rule will have no effect on revenue collections other than the federal share of the promulgation costs for FY 23-24. It is anticipated that \$378 will be collected in FY 23-24 for the federal share of the expense for promulgation of this proposed rule and the final rule.

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

This proposed rule continues the provisions of the October 1, 2023 Emergency Rule, which amended the standards for payment and reimbursement for nursing facilities in order to implement the required transition from the current RUG-III/RUG-IV case-mix classification model used under the Medicare skilled nursing facility prospective payment system to the patient driven payment model (PDPM) which was delayed by the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS) until October 1, 2023 due to the COVID-19 public health emergency. The proposed rule implements the PDPM case-mix classification model for skilled nursing facilities and mandates use of the optional state assessment item set. It is anticipated that implementation of this proposed rule will not result in costs or benefits to nursing facility providers or small businesses in FY 23-24, FY 24-25, and FY 25-26.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This rule has no known effect on competition and employment.

Kimberly Sullivan, JD
Interim Medicaid Executive Director
2310#051

Patrice Thomas
Deputy Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

Department of Health Emergency Response Network Board

Louisiana Stroke Center Recognition
(LAC 48:I.Chapter 187)

Notice is hereby given that the Emergency Response Network Board has exercised the provisions of R.S. 49:950 et seq., the Administrative Procedure Act, and intends to amend LAC 48:I.Chapter 187, Requirements for Stroke Center Recognition, §18703.A.3, §18705.A.5. and A.6, and §18708.D., as approved by the Emergency Response Network Board in a meeting of August 17, 2023, as authorized by R.S. 40:2846(A) and R.S. 40:2845(A)(7). The amendments clarify when primary stroke centers, both PSC-E and PSC, are required to submit quarterly data to LERN, clarifies the data needed for acute stroke center hospital (ASCH) recognition by LERN, and provides with respect to the failure to submit stroke center data to LERN.

Title 48
PUBLIC HEALTH—GENERAL
Part I. General Administration
Subpart 15. Emergency Response Network
Chapter 187. Requirements for Louisiana Stroke
Center Recognition

§18703. Stroke Center Criteria

A. - A. 2. ...

3. PSC-E: a primary stroke center (PSC-E) shall meet the requirements specified by the joint commission, healthcare facilities accreditation program (HFAP), or other LERN approved accrediting/certification body for Primary Stroke Center verification. Attestation as a PSC-E is only allowed after verification by the joint commission, HFAP, or other LERN approved accrediting/certification body that the facility meets all requirements set forth in the PSC standards. In addition to PSC requirements, a PSC-E must have physician(s) credentialed to perform mechanical thrombectomy and must update resource management portal of endovascular availability at all times. If a physician credentialed to perform endovascular capability is not available, the PSC-E must notify all EMS providers in the region when endovascular resources are not available. The PSC-E must collect and submit quarterly to LERN the same data the joint commission requires the Thrombectomy Stroke Capable centers to collect and any other data as required by LERN.

4. - 6.a....

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2846(A) and 48:2845(A)(7).

HISTORICAL NOTE: Promulgated by the Department of Health, Emergency Response Network, LR 40:2590 (December 2014), amended by the Department of Health, Emergency Response Network LR 46:1088 (August 2020); amended by the Department of Health, Emergency Response Network LR 50:

§18705. Attestation for Stroke Center Recognition

A. - A.4. ...

5 A center or hospital seeking ASRH recognition must submit data which, at a minimum, meets door to needle metric for ASRH recognition for the two consecutive quarters immediately preceding the submission date. Although a center or hospital seeking ASRH stroke center recognition is not required to obtain certification by an external certifying body, a hospital which submits a copy of ASRH certification by a LERN-recognized organization, such as the joint commission, HFAP or other LERN approved accrediting/certification body, shall be assumed to meet the requirements for recognition. Hospitals must all meet LERN ASRH requirements and approved data submission requirements.

6. Each center or hospital shall submit proof of continued compliance every two years by submission of an affidavit by its CEO. The CEO may submit a revised attestation at any point during the two year period, as appropriate, when a change in resources or certification occurs.

B. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2846(A) and 48:2845(A)(7).

HISTORICAL NOTE: Promulgated by the Department of Health, Emergency Response Network, LR 40:2590 (December 2014), amended by the Department of Health, Emergency Response Network LR 46:1089 (August 2020); amended by the Department of Health, Emergency Response Network, LR 50:

§18708. Failure to Submit Stroke Data to LERN

A. - C. ...

D. If an ASRH fails to meet the performance metrics after two quarters of participation in data review, the board appointed stroke committee may temporarily demote the facility to a stroke bypass hospital until the next board meeting, when the board appointed stroke subcommittee will present the blinded data to the board for a vote on demotion to stroke bypass hospital versus continued remediation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2846(A) and 48:2845(A)(7).

HISTORICAL NOTE: Promulgated by the Department of Health, Emergency Response Network, LR 46:1089 (August 2020); amended by the Department of Health, Emergency Response Network, LR 50:

Family Impact Statement

1. What effect will this rule have on the stability of the family? The proposed rules will not affect the stability of the family.

2. What effect will this have on the authority and rights of persons regarding the education and supervision of their children? The proposed rules will not affect the authority and rights of persons regarding the education and supervision of their children.

3. What effect will this have on the functioning of the family? The rules will not affect the functioning of the family.

4. What effect will this have on family earnings and family budget? These rules will not affect the family earnings or family budget.

5. What effect will this have on the behavior and personal responsibility of children? These rules will not affect the behavior or personal responsibility of children.

6. Is the family or local government able to perform the function as contained in this proposed Rule? No, the proposed rules will have no impact.

Poverty Impact Statement

The proposed rulemaking will have no impact on poverty as described in R.S. 49:973.

Small Business Analysis

The impact of the proposed Rule on small business has been considered and it is estimated that the proposed action is not expected to have a significant adverse impact on small business as defined in the Regulatory Flexibility Act. 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 Rule that will accomplish the objectives of applicable statutes while minimizing the adverse impact of the proposed Rule on small business.

Provider Impact Statement

In compliance with House Concurrent Resolution (HCR) 170 of the 2014 Regular Session of the Louisiana Legislature, the provider impact of these proposed Rules have been considered. It is anticipated that this proposed Rule will have no impact on the staffing level requirements or qualifications required to provide the same level of service, and no increase on direct or indirect cost. The proposed Rule will have no impact on the provider's ability to provide the same level of service as described in HCR 170.

Public Comments

Interested persons may submit written comments relative to the proposed Rule until 4:30 p.m., Friday, November 10, 2023 to Paige Hargrove, Louisiana Emergency Response Network, 7979 Independence Blvd, Suite 207, Baton Rouge, LA 70806, or via email to paige.hargrove@la.gov.

Paige Hargrove
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Louisiana Stroke Center Recognition

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)
Other than the rule publication costs, which are estimated to be \$250 in FY 24, it is not anticipated that the proposed rule will result in any material costs or savings to any state or local governmental unit.
As approved by the Louisiana Emergency Response Network (LERN) Board on August 17, 2023, the proposed rule clarifies when a primary stroke center is required to submit quarterly data to LERN, clarifies the data needed for acute stroke center hospital recognition by LERN, and provides that board appointed stroke committee may temporarily demote a facility to a stroke bypass hospital if the facility fails to meet certain performance metrics.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There is no anticipated effect on revenue collections of state or local governmental units.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS, SMALL BUSINESSES, OR NONGOVERNMENTAL GROUPS (Summary)
Patients experiencing a stroke are directly affected by this proposed rule, which protocol is authorized by La. R.S. 9:2798.5 and “developed to facilitate the timely and appropriate delivery of patients to the most appropriate care site for the definitive treatment of injuries.” Hospitals seeking Acute Stroke Ready Hospital (ASRH) status and seeking to maintain ASRH are also impacted.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
There will be no effect on employment or competition. Acute stroke ready hospital recognition is a voluntary process.

Paige Hargrove
Executive Director
2310#032

Patrice Thomas
Deputy Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT Department of Health Health Standards Section

Facility Need Review
(LAC 48:I.Chapter 125)

The Department of Health, Health Standards Section proposes to repeal and replace LAC 48:I.Chapter 125 in its entirety as authorized by R.S. 36:254 and R.S. 40:2116 et seq. This proposed Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

Act 531 of the 2022 Regular Session of the Louisiana Legislature directed the Department of Health to revise the requirements governing the facility need review (FNR) process to identify healthcare providers subject to FNR, establish an FNR committee, and establish an FNR moratorium, exceptions, and cost effective measures for nursing facilities.

The Department of Health, Health Standards Section proposes to repeal and replace the provisions of LAC 48:I.Chapter 125 governing facility need review in its entirety in order to re-promulgate these provisions in compliance with Act 531 and to include requirements for Opioid Treatment Program need and application reviews.

Title 48

PUBLIC HEALTH—GENERAL

Part I. General Administration

Subpart 5. Health Planning

Chapter 125. Facility Need Review

Subchapter A. General Provisions

§12501. Definitions

A. Definitions. When used in this Chapter the following terms and phrases shall have the following meanings unless the context requires otherwise.

Abeysance of Nursing Facility Beds—a situation in which a nursing facility, if it meets certain requirements, may have all (but not only a portion) of its approved beds disenrolled from the Medicaid Program without causing the approval for the beds to be revoked after 120 days.

Adult Residential Care Provider (ARCP)—a facility, agency, institution, society, corporation, partnership, company, entity, residence, person or persons, or any other group, that provides adult residential care services for compensation to two or more adults who are unrelated to the licensee or operator. Adult residential care includes, but is not limited to the following services: lodging, meals, medication administration, intermittent nursing services, and assistance with personal hygiene, assistance with transfers and ambulation, assistance with dressing, housekeeping and laundry. For the purposes of this Facility Need Review (FNR) Rule, ARCP refers to an entity that is or will be licensed as an ARCP level 4-adult residential care provider. All ARCPs that have received FNR approval prior to August 1, 2022 shall retain FNR approval unless such FNR approval has expired. Facility need review approval is not required for any ARCP that is initially licensed August 1, 2022 or thereafter.

Agonist—a drug that activates certain receptors in the brain.

Antagonist—a drug that blocks opioids by attaching to the opioid receptors without activating them. Antagonists cause no opioid effect and block full agonist opioids. Examples of antagonists include, but are not limited to naltrexone and naloxone.

Applicant—the person who is developing the proposal for purposes of receipt of FNR approval for the healthcare facility or provider beds to proceed to apply for licensure, and/or certification by the Louisiana Department of Health (LDH).

Applicant Representative(s)—the person(s) specified by the applicant on the FNR application form to whom written notifications are provided relative to the status of the application during the review process.

Application—the required and completed FNR form(s), documentation, fee, and any other required information.

Approval—a determination by the FNR committee that an application meets the requirements of the FNR program for purposes of proceeding with licensure and/or certification by the department.

Behavioral Health Services (BHS)—mental health services, addictive disorders and substance use disorders treatment services, or combination of such services, for adults, adolescents, and children.

Behavioral Health Services Provider (BHSP)—a facility, agency, institution, person, society, corporation, partnership, unincorporated association, group, or other legal entity that provides behavioral health services or, presents itself to the public as a provider of behavioral health services. For the purposes of this Rule, FNR shall be applied to providers or applicants who elect to provide psychosocial rehabilitation services, community psychiatric support and treatment services, and/or opioid treatment program services licensed under a BHSP license.

CMS—Centers for Medicare and Medicaid Services.

Community Home—a type of community residential facility that has a capacity in accordance with R.S. 28:451.2, or current law.

Community Psychiatric Support and Treatment (CPST) Services—behavioral health services as defined in Title 48, Chapter 56.

Department—the Louisiana Department of Health (LDH).

Denial—a determination by the department's FNR committee that a proposal does not meet the requirements of the Facility Need Review (FNR) program and that the proposed healthcare facility or provider beds may not be licensed and/or certified.

Facility Need Review (FNR)—a review conducted for specific provider types to determine whether there is a need for additional licensed and/or certified healthcare providers and/or beds.

FNR Committee—LDH secretary appointed committee to review and render a decision to approve or deny an FNR application in accordance with R.S. 40:2116, or current law.

FNR Program—the program within LDH, Health Standards Section that oversees the day-to-day operations of FNR application intake and submission to the FNR committee, and communicates with applicants regarding the status of the application, and tracks the status of the decisions of the FNR committee.

Full Agonist—a drug that activates the opioid receptors in the brain fully, resulting in the full opioid effect. Examples of full agonists include, but are not limited to, heroin, oxycodone, methadone, hydrocodone, morphine, and opium.

Geographic Service Area—the geographic area under which a healthcare provider operates and/or provides services pursuant to licensing requirements, and for the purposes of FNR application review, the geographic area in which additional need will be assessed.

Group Home—a type of community residential facility that has a capacity in accordance with R.S. 28:451.2, or current law.

Health Standards Section (HSS)—the section of LDH that is responsible for licensing healthcare facilities, certifying those facilities that are applying for participation in the Medicaid (Title XIX) and Medicare (Title XVIII) Programs, and conducting surveys and inspections.

Home and Community Based Service (HCBS) Providers—those agencies, institutions, societies, corporations, facilities, person or persons, or any other group intending to provide or providing respite care (RC) services, personal care attendant (PCA) services, supervised independent living (SIL) services, monitored in-home caregiving (MIHC) services, or any combination of services thereof, including RC providers, SIL providers, MIHC providers, and PCA providers.

Hospice—an autonomous, centrally administered, medically directed program providing a continuum of home, outpatient, and homelike inpatient care for the terminally ill patient and his family. It employs an interdisciplinary team to assist in providing palliative and supportive care to meet the special needs arising out the physical, emotional, spiritual, social, and economic stresses that are experienced during the final stages of illness and during dying and bereavement.

Hospice Inpatient Facility—facility where specific hospice levels of care ranging from residential to acute, including respite, are provided in order to meet the needs of the patient/family.

Hospice Outpatient Provider—hospice services are provided to patients in their place of residence (e.g. their home, adult residential care provider, nursing home).

Hospice Providers—hospice inpatient facility or hospice outpatient provider that is licensed by LDH in accordance with the requirements of R.S. 40:2183, or current law.

Hospital Service District—a political subdivision of the state of Louisiana created or authorized pursuant to R.S. 46:1051 et seq., or current law.

Intermediate Care-Level I (IC-I)—a level of care within a nursing facility that provides basic nursing services under the direction of a physician to persons who require a lesser degree of care than skilled services, but who need care and services beyond the level of room and board. Services are provided under the supervision of a registered nurse (RN) seven days a week during the day tour of duty with licensed nurses twenty-four hours a day.

Intermediate Care-Level II (IC-II)—a level of care within a nursing facility that provides supervised personal care and health related services, under the direction of a physician, to persons who need nursing supervision in addition to help with personal care needs. Services are provided under the supervision of a RN 7 days a week during the day tour of duty with licensed nurses 24 hours a day.

Intermediate Care Facility for the Developmentally Disabled (ICF-DD)—a facility that provides developmentally disabled residents with professionally developed individual plans of care, supervision, and therapy in order to attain or maintain optimal functioning.

LDH Administrative Regions—the administrative regions and the parishes that comprise these regions are as follows:

- a. Region I: Orleans, Plaquemines, Jefferson, and St. Bernard;
- b. Region II: Ascension, East Baton Rouge, East Feliciana, Iberville, Pointe Coupee, West Baton Rouge, and West Feliciana;
- c. Region III: Assumption, Lafourche, St. Charles, St. James, St. John, St. Mary, and Terrebonne;
- d. Region IV: Acadia, Evangeline, Iberia, Lafayette, St. Landry, St. Martin, and Vermilion;
- e. Region V: Allen, Beauregard, Calcasieu, Cameron, and Jefferson Davis;
- f. Region VI: Avoyelles, Catahoula, Concordia, Grant, LaSalle, Rapides, Vernon, and Winn;
- g. Region VII: Bienville, Bossier, Caddo, Claiborne, DeSoto, Natchitoches, Red River, Sabine, and Webster;
- h. Region VIII: Caldwell, East Carroll, Franklin, Jackson, Lincoln, Madison, Morehouse, Ouachita, Richland, Tensas, Union, and West Carroll; and
- i. Region IX: Livingston, St. Helena, St. Tammany, Tangipahoa, and Washington.

Major Alteration—any repair or replacement of building materials and equipment that does not meet the definition of minor alteration.

Medicaid Program—the Louisiana medical assistance program administered in accordance with Title XIX of the Social Security Act.

Medicaid Program—the Louisiana medical assistance program administered in accordance with Title XIX of the Social Security Act.

Medication for Opioid Use Disorder—Food and Drug Administration (FDA) approved medication for opioid use disorder utilized to reduce opioid use and harmful opioid related behaviors when used as part of a comprehensive treatment program.

Minor Alteration—repair or replacement of building materials and equipment with materials and equipment of a similar type that does not diminish the level of construction below that which existed prior to the alteration. This does not include any alteration to the function or original design of the construction.

Monitored in-home Caregiving (MIHC) Services—home and community-based services module as defined in LAC 48:I, Chapter 50, pursuant to a HCBS provider license.

Notice of Abeyance—a written notice issued by the department to a nursing facility stating that the criteria for placing all of the facility's approved beds in abeyance have been met.

Nursing Facility (NF)—an institution that is primarily engaged in providing the following services to residents:

- a. skilled nursing care and related services for residents who require medical or nursing care;
- b. rehabilitation services for the rehabilitation of injured, disabled, or sick persons; or
- c. on a regular basis, health-related care and services to individuals who, because of their mental or physical condition, require care and services (above the level of room and board) that can be made available to them only through institutional facilities. Such institutional facilities

are those facilities that are not primarily for the care of mental diseases.

Opioid Agonist Treatment Medication—Food and Drug Administration approved medication to treat Opioid Use Disorder.

Opioid Treatment Program (OTP)—a program that engages in medication-assisted opioid treatment of clients with an opioid agonist treatment medication.

Office of Behavioral Health (OBH)—LDH office and single state agency that is statutorily responsible for the treatment and prevention of addictive disorders and substance use disorders.

Opioid Treatment Program Needs Assessment—the determination of a need for new a new opioid treatment program in a geographic service area(s) by the department's Office of Behavioral Health in accordance with the criteria identified in Section 12527.

Partial Agonist—a drug that activates the opioid receptors in the brain, but to a much lesser degree than a full agonist. Buprenorphine is an example of a partial agonist.

Pediatric Day Health Care (PDHC) Providers—a facility that serves medically fragile individuals under the age of 21, including technology dependent children who require close supervision, in accordance with the requirements of LAC 48:I, Chapter 52.

Person—a human being or juridical person.

Personal Care Attendant (PAC)—home and community-based services module as defined in LAC 48:1, Chapter 50, pursuant to a HCBS provider license.

Physical Location—the specific address, building, or other permanent structure wherein the provider operates its business.

Pre-Approved Beds—beds and/or facilities that are automatically granted FNR approval in accordance with the grandfather provisions of this program.

Program—the Facility Need Review Program.

Psychosocial Rehabilitation (PSR) Services—behavioral health services as defined in Title 48, Chapter 56.

Respite Care (RC) Services—an intermittent service designed to provide temporary relief to unpaid, informal caregivers of the elderly, and/or persons with disabilities, pursuant to a HCBS provider license.

Secretary—the secretary of Louisiana Department of Health (LDH).

Supervised Independent Living (SIL) Services—home and community-based services module as defined in LAC 48:I, Chapter 50, pursuant to an HCBS provider license.

Skilled Nursing Care—a level of care within a nursing facility that provides intensive, frequent, and comprehensive nursing care, and/or rehabilitation services ordered by and under the direction of a physician. Services are provided under the supervision of an RN 7 days a week during the day tour of duty with licensed nurses 24 hours a day. Skilled beds are located in nursing facilities and in distinct parts of acute care hospitals.

Skilled Nursing Facility—a nursing facility with the staff and equipment to give skilled nursing care and/or skilled rehabilitation services, and other related health services.

State Opioid Treatment Authority—the OBH authority within LDH who is designated to exercise the responsibility

and authority within the state for governing the treatment of opioid use disorders within OTPs.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2116 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health, Health Standards Section, LR 50:

§12503. General Information

A. No healthcare provider designated in R.S. 40:2116 or R.S. 40:2116.1 shall be licensed by LDH and/or certified to participate in the Title XIX program without first obtaining FNR approval and complying with any and all licensing regulations promulgated by LDH. Any person establishing, managing, or operating a facility, provider, service, or bed without the approval required by this Chapter shall immediately cease providing services and shall be prohibited from obtaining a license from LDH and/or participating in the Title XIX program, until FNR approval has been granted by the department.

B. The FNR committee shall consist of the following members:

1. the secretary of LDH, or his designee;
2. the assistant secretary of the Office of Behavioral Health (OBH) of LDH, or his designee;
3. the assistant secretary of the Office for Citizens with Developmental Disabilities (OCDD) of LDH, or his designee;
4. the assistant secretary of the Office of Aging and Adult Services (OAAS) of LDH, or his designee;
5. the assistant secretary of the Office of Public Health (OPH) of LDH, or his designee;
6. the Medicaid director of LDH, or his designee;
7. the Medicaid medical director of LDH, or his designee; and

8. any additional FNR committee members appointed by LDH secretary when necessary in reviewing applications of OTPs, including but not limited to the following individuals:

- a. the LDH OBH medical director or physician who has expertise in substance use disorder treatment and, in particular, opioid treatment;
- b. an addiction counselor licensed in the state of Louisiana by Addictive Disorder Regulatory Authority; and
- c. the Louisiana State Opioid Treatment Authority.

C. The FNR committee will conduct an FNR to determine if there is a need for additional providers, facilities, or beds to be licensed by LDH and/or enrolled to participate in the Title XIX program for the following healthcare facility types, as defined under this Chapter:

1. nursing facilities (NF);
2. skilled nursing facilities;
3. intermediate care facilities for persons with developmental disabilities (ICF-DD);
4. home and community-based service (HCBS) providers of respite care (RC) services, personal care attendant (PCA) services, supervised independent living (SIL) services, and monitored in-home caregiving (MIHC) services;
5. hospice providers;
6. pediatric day health care facilities (PDHC);
7. behavioral health services providers of psychosocial rehabilitation (PSR) services, and community psychiatric support and treatment (CPST) services; and

8. behavioral health service providers of opioid treatment program (OTP) services.

D. The responsibilities and duties of the FNR committee include, but are not limited to:

1. conducting initial and supplemental reviews of each FNR application, as applicable;
2. determining whether each application meets the established criteria for FNR approval; and
3. sending FNR application approval and/or denial notices.

E. No FNR committee member shall have a proprietary or financial interest in any healthcare facility subject to FNR.

F. Except as otherwise provided in the grandfather provisions of these regulations, each healthcare provider designated in R.S. 40:2116 or R.S. 40:2116.1 shall first receive FNR approval before applying to be licensed by LDH and before being certified to participate in the Title XIX program.

G. Grandfather Provision. An approval shall be deemed to have been granted under this program without review for NFs, ICFs/DD, and/or beds that meet one of the following descriptions:

1. all valid Section 1122 approved healthcare facilities/beds;
2. all valid approvals for healthcare facilities/beds issued under the Medicaid Capital Expenditure Review Program prior to the effective date of this program;
3. all valid approvals for healthcare facilities issued under the FNR program; or
4. all NF beds that were enrolled in Medicaid as of January 20, 1991.

H. Additional Grandfather Provision. An approval shall be deemed to have been granted under FNR without review for HCBS providers of RC, PCA, SIL, or MIHC services, ICFs/DD, hospice providers, PDHC providers, or BHSPs that meet one of the following conditions:

1. Home and Community Based Service providers that were licensed by January 31, 2009 or had a completed initial licensing application submitted to the department by June 30, 2008;
2. existing licensed ICFs-DD that are converting to the Residential Options Waiver.
3. licensed Adult Day Health Care (ADHC) providers who are enrolled or will enroll in the Louisiana Medicaid Program as a Program for All-inclusive Care for the Elderly (PACE) provider and apply for an HCBS license to provide PCA services as required by the program;
4. hospice providers that were licensed or had a completed initial licensing application submitted to the department by March 20, 2012; or
5. pediatric day health care providers that were licensed by the department before March 1, 2014, or an entity that meets all of the following requirements:
 - a. has a building site or plan review approval for a PDHC facility from the Office of State Fire Marshal by March 1, 2014;
 - b. has begun construction on the PDHC facility by April 30, 2014, as verified by a notarized affidavit from a licensed architect submitted to the department, or the entity had a fully executed and recorded lease for a facility for the

specific use as a PDHC facility by April 30, 2014, as verified by a copy of a lease agreement submitted to the department;

c. submits a letter of intent to the department's HSS by April 30, 2014, informing the department of its intent to operate a PDHC facility; and

d. became licensed as a PDHC by the department no later than December 31, 2014.

6. behavioral health services providers that are licensed to provide PSR and/or CPST, or that have submitted a completed application for licensure as a BHSP that includes PSR and/or CPST, prior to February 20, 2018;

7. behavioral health services providers that are licensed to provide OTP services, or that have submitted a complete application for licensure as a BHSP that includes OTP services prior to January 1, 2024; and

8. behavioral health services providers that fall within the provisions of Act 33 of the 2017 Regular Session of the Louisiana Legislature, commonly referred to as accredited mental health rehabilitation providers, that submit a completed BHSP licensing application by December 1, 2017 and become licensed by April 1, 2018.

I. Exemptions from the FNR process shall be made for:

1. a NF that needs to be replaced as a result of destruction by fire or a natural disaster, such as a hurricane; or

2. a NF and/or facility building owned by a government entity that is replaced due to a potential health hazard.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2116 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health, Health Standards Section, LR 50:

§12505. Initial Application and Review Process

A. Facility need review (FNR) applications as defined in the Chapter except for FNR applications that are submitted pursuant to a Request for Proposal (RFP) or Request for Application (RFA) issued by the department will follow the initial application and review process, the supplemental application review process, and the appeal provisions set forth in this licensing Rule. Facility need review applications that are submitted pursuant to a RFP or RFA will follow the application process, the review process, the supplemental review process, the notice provisions, and the appeal provisions that are contained in the individual RFP or RFA.

B. Facility need review applications shall be submitted on 8.5 inch by 11 inch paper that shall not include Health Insurance Portability and Accountability Act (HIPPA) protected information, to the HSS, FNR program manager by one of the following means:

1. via postal service to the designated FNR program mailing address; or

2. electronically via the HSS designated system or software.

C. Application forms may be requested in writing or by telephone from the FNR program, or accessed via the department's designated website.

D. The applicant shall also submit with its application, any written documentation or evidence the applicant believes supports its FNR application, including but not limited to the following examples.

1. Any data/documents regarding waiting lists for the proposed services in the applicant's service area.

2. Any letters from healthcare facilities, medical professionals or others, who have clients/patients/recipients awaiting the proposed services in the applicant's service area.

3. Any data/documentation of complaints about clients/patients/recipients not being able to access the proposed services in the applicant's service area.

4. Any data/documentation about population groups that do not have access to the proposed services in the applicant's service area, to whom the applicant will provide such services.

5. Other data/documentation about the need in the applicant's service area for the proposed services.

6. Other data/documentation about the probability of serious adverse consequences to recipient's ability to access healthcare if the applicant was not allowed to be licensed.

E. The applicant representative specified on the application will be the only person to whom the FNR program will send written notification in matters relative to the status of the application during the review process. If the applicant's application information or representative changes at any time during the review process, the applicant is required to notify the FNR program in writing.

F. The required nonrefundable FNR application fee of \$200 shall be submitted either by mail to the designated payment address or electronically via the HSS designated system or software.

G. The review period of the initial application will be no more than 90 days from receipt of the FNR application, or within the deadlines established in an RFP or RFA; thereafter, a decision will be rendered by the FNR committee. The review period begins on the first day after the date of receipt of the completed application, or, in the case of issuance of an RFP, on the first day after the period specified in the RFP.

1. Each FNR committee member shall receive a copy of the initial application and all documentation submitted for review.

2. The FNR committee shall meet as a committee to review the initial application within the specified time limits, as provided herein.

a. The FNR committee shall meet in-person or through virtual means, including telephone or virtual technology that facilitates synchronous interaction.

b. All members of the FNR committee shall attend the meeting, either in-person or by virtual means. The members shall review the initial application, and the members may request information from the department in considering an application.

c. The FNR committee shall render a decision on the initial application, and such decisions are to be by simple majority decision.

d. The FNR committee's decision may approve the initial application or may deny the initial application. Alternatively, the FNR committee may request that the applicant submit additional or clarifying information and documentation.

e. If the FNR committee decision is to approve or deny the initial application, the FNR committee shall forward written notice to the applicant of such decision. The notice shall include information on supplemental review, appeals, and any additional instructions.

f. If the FNR committee decision is to request additional or clarifying information and documentation from the applicant, the FNR committee shall send written notice to the applicant, requesting the information and documentation by a specific date. The initial application and any additional or clarifying information and documentation shall be considered at the next FNR committee meeting, wherein the FNR committee shall make a decision on the initial application and forward written notice to the applicant of such decision. The notice shall include information on supplemental review, appeal rights, and any additional instructions.

3. Written notice of FNR decision along with required follow-up instructions shall be sent to the applicant by certified mail or by electronic mail with a request for an acknowledgement and a read and delivery receipt, to the applicant representative. Written notice of the FNR committee's request for additional or clarifying information and documentation shall be sent to the applicant by electronic mail with a request for an acknowledgement and a read and delivery receipt.

4. Unless otherwise stated in a specific RFP or RFA, the initial review and decision by the FNR committee shall consider all written materials and documentation submitted by the applicant and shall be conducted as a paper review.

5. If the FNR committee approves the FNR application, then the applicant may proceed with seeking licensure or certification to participate in the Title XIX program, as applicable.

6. If the FNR application is denied, the applicant may choose within 30 calendar days of receipt of notice of denial, to do one of the following:

a. Unless otherwise stated in a specific RFP or RFA, the applicant may file a request for a supplemental review by the FNR committee pursuant to the provisions of this Rule; or

b. In lieu of supplemental review, the applicant may file an administrative appeal, pursuant to the provisions of this Rule. Such request for administrative appeal shall be filed with the Division of Administrative Law (DAL) within 30 calendar days of receipt of the notice of the denial letter.

i. The applicant is not required to request a supplemental review and may elect to proceed directly to an administrative appeal.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2116 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health, Health Standards Section, LR 50:

§12507. Supplemental Application Review Process

A. If the applicant decides to request a supplemental review of the denied initial application, a written request for supplemental application review must be received by the department within 30 days of receipt of notice of the denial letter.

B. Upon receipt of the applicant's timely written request to supplement its FNR application, a written confirmation notice will be sent to the applicant informing the applicant that he or she has 30 days to send in any additional documentation and evidence in support of the FNR application, pursuant to the provisions of this Rule.

1. If the applicant fails to timely submit the supplemental materials, the supplemental application is automatically denied. Written notice of the denial shall be

forwarded to the applicant, with information regarding the applicant's right to file an administrative appeal with the DAL.

C. Upon timely receipt of the supplemental materials from the applicant, the FNR committee shall conduct a supplemental application review.

1. As part of the supplemental application review, the applicant is provided with an opportunity to meet with the FNR committee, or its designees. The meeting may be conducted in-person or, at the discretion of LDH, through virtual means, including by telephone or virtual technology that facilitates synchronous interaction, and includes an opportunity for questions from the applicant and/or committee member(s)/designee(s).

2. If the FNR applicant fails to attend the supplemental review meeting, then the FNR committee may proceed to complete the supplemental review by reviewing any supplemental material submitted by the applicant and issue a supplemental review decision. The FNR committee may, at its discretion, elect to re-schedule the supplemental review meeting upon good cause shown by the FNR applicant.

D. Following the meeting, the applicant will have an additional 30 days to submit any other evidence, data, and documentation to further supplement the FNR application. At the conclusion of this step, the FNR committee will meet to consider all the supplemental documentation, data, and evidence submitted by the applicant, as well as the issues discussed at the meeting with the applicant, if applicable.

1. All members of the FNR committee shall meet in-person or through virtual means, including telephone or virtual technology that facilitates synchronous interaction, to complete the supplemental application review process.

2. The FNR committee shall render a decision on the supplemental application within 60 days of the deadline for submission of any additional documentation and evidence by the applicant after the supplemental review meeting; such decisions are to be by simple majority decision.

3. The FNR committee will issue a final decision to either approve the FNR application or deny the FNR application, and shall forward written notice to the applicant of such decision.

a. The written notice of the supplemental application review decision from the FNR committee will be sent to the applicant by certified mail or by electronic mail with a request for acknowledgement and a read delivery receipt.

b. The written notice shall include information on the applicant's right to file an administrative appeal of the denial with the DAL within 30 calendar days of receipt of the supplemental application denial notice.

c. Failure to file timely for an administrative appeal shall exhaust the applicant's remedies with the department, and the decision to deny FNR approval is final.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2116 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health, Health Standards Section, LR 50:

§12509. Administrative Appeal Procedures

A. An applicant who receives a denial of an initial FNR application or denial of a supplemental FNR application may request an administrative hearing within 30 calendar days after receipt of the department's notice of denial of FNR application.

1. The request for an administrative hearing shall be made in writing to the DAL with a copy of the request also sent to the department's FNR program.

2. The request shall contain a statement setting forth the specific reason with which the applicant disagrees and the reasons for the disagreement.

3. The request shall be considered timely if it is postmarked by the 30th calendar day after receipt of the department's notice of denial.

B. The administrative appeal shall be conducted by the DAL in accordance with the Administrative Procedure Act.

C. Failure to file timely for an administrative appeal shall exhaust the applicant's remedies with the department and the decision to deny FNR approval is final.

D. Unless a timely and proper administrative appeal request is received by the DAL, the findings of the FNR committee shall be considered a final and binding administrative determination.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2116 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health, Health Standards Section, LR 50:

Subchapter B. Determination of Bed, Unit, Facility, or Agency Need

§12513. Intermediate Care Facilities for the Developmentally Disabled

A. Except as otherwise provided in this Chapter, no ICF-DD shall be certified or enrolled to participate in the Title XIX program unless the FNR program has granted an approval for an additional ICF-DD facility or additional ICF-DD beds to be enrolled in the Title XIX program.

B. The geographic service area for a proposed or existing ICF-DD facility is designated as the LDH administrative region in which the facility or proposed facility is or will be located. The administrative regions and the parishes that comprise these regions are as follows:

1. Region I: Jefferson, Orleans, Plaquemines, and St. Bernard;

2. Region II: Ascension, East Baton Rouge, East Feliciana, Iberville, Pointe Coupee, West Baton Rouge, and West Feliciana;

3. Region III: Assumption, Lafourche, St. Charles, St. James, St. John, St. Mary, and Terrebonne;

4. Region IV: Acadia, Evangeline, Iberia, Lafayette, St. Landry, St. Martin, and Vermilion;

5. Region V: Allen, Beauregard, Calcasieu, Cameron, and Jefferson Davis;

6. Region VI: Avoyelles, Catahoula, Concordia, Grant, LaSalle, Rapides, Vernon, and Winn;

7. Region VII: Bienville, Bossier, Caddo, Claiborne, DeSoto, Natchitoches, Red River, Sabine, and Webster;

8. Region VIII: Caldwell, East Carroll, Franklin, Jackson, Lincoln, Madison, Morehouse, Ouachita, Richland, Tensas, Union, and West Carroll; and

9. Region IX: Livingston, St. Helena, St. Tammany, Tangipahoa, and Washington.

C. The beds and population of the geographic service area where the facility is located, or is proposed to be located, will be considered in determining the need for the facility or additional beds. The beds that are counted in determining the need for community and group homes are

licensed and approved Medicaid-enrolled beds as of the due date for a decision on application.

D. Data sources utilized include information compiled by the FNR program and the middle population projections recognized by the State Planning Office as official projections. The population projections utilized are those for the year that the beds are to be enrolled in the Medicaid program.

E. In accordance with the department's policy of least restrictive environment, there is currently no identified need for additional facilities with 16 or more beds. Therefore, applications for facilities of 16 or more beds shall not be accepted for review, and applications to increase existing facilities to 16 or more beds shall not be accepted for review.

F. At the present time, the recommended bed-to-population ratio for community and group homes has been achieved. However, special needs and circumstances may arise that the department may consider as indicators of need for additional beds such as occupancy rates, availability and accessibility of clients in need of placements, patient origin studies, and requests for special types of beds or services.

1. For service areas in which average annual occupancy for the four most recent quarters (as reported in the MR-2) is in excess of 93 percent, the department may review the census data, utilization trends, and other factors described in this Section to determine if additional beds are needed.

G. If the department determines that there is a need for beds in a parish with an average annual occupancy in excess of 93 percent, a Request for Proposals (RFP) or Request for Applications (RFA) will be issued. No applications will be accepted under these provisions unless the department declares a need and issues a RFP or RFA. Applications will be accepted for expansion of existing facilities and/or for the development of new facilities. However, no applications will be considered for any facility with 16 or more beds.

1. The RFP or RFA will indicate the region in need of beds, the number of beds needed, the date that the beds are to be available to the target population (fully licensed and enrolled in Medicaid), and the factors that the department considers relevant in determining the need for the additional beds.

2. The RFP or RFA will specify the MR-2 that the determination of need is based.

3. The RFP or RFA will be issued and will specify the dates that the department will accept applications.

4. Applications will be accepted for a period to be specified in the RFP or RFA. Once submitted, an application cannot be changed and additional information will not be accepted.

5. The RFP or RFA shall specify the following:

- application submission requirements;
- a due date for applications;
- process of review by the FNR committee of any applications timely received, including any supplemental review process;
- notice of selection;
- information on appeals processes for applicants that are not granted FNR approval; and
- other information or requirements for the RFP or its process, as determined by the department.

H. The FNR committee will review the proposals and independently evaluate and assign points to each of the following 10 items on the application for the quality and adequacy of the response to meet the need of the project:

1. work plan for Medicaid certification;
2. availability of the site for the proposal;
3. relationship or cooperative agreements with other healthcare providers;
4. accessibility to other healthcare providers;
5. availability of funds and financial viability;
6. experience and availability of key personnel, as well as compliance history if the applicant is or has been previously licensed as an ICF-DD;
7. range of services, organization of services, and program design;
8. methods to achieve community integration;
9. methods to enhance and assure quality of life; and
10. plan to ensure client rights, maximize client choice, and family involvement.

I. A score of 0-20 will be given to the applicant's response to each item using the following guideline:

1. 0 = inadequate response;
2. 5 = marginal response;
3. 10 = satisfactory response;
4. 15 = above average response; and
5. 20 = outstanding response.

J. In the case of a tie for the highest score for a specific facility or additional beds, the FNR committee will conduct a comparative review of the top scoring proposals that will include prior compliance history. The FNR committee may request and review data from OCDD and HSS on prior compliance history. Subject to Subsection L of this Section, the FNR committee will make a decision to approve one of the top scoring applications based on the comparative review of the proposals.

K. If no proposals are received that adequately respond to the need, the FNR committee may opt not to approve an application. However, the evaluation period may be extended, if provided for in the RFP or RFA.

L. At the end of the 90-day review period, each applicant will be notified of the department's decision to approve or disapprove the application. However, the evaluation period may be extended, if provided for in the RFP or RFA. Applicants will be given 30 days from the date of receipt of the notification by the department in which to file an appeal.

1. The issuance of the approval of the proposal with the highest number of points shall be suspended during the 30-day period for filing appeals and during the pendency of any administrative appeal. All administrative appeals shall be consolidated for purposes of the hearing.

M. Proposals approved under these provisions are bound to the description in the application with regard to type of beds and/or services proposed as well as to the location as defined in the RFP issued by the department.

1. Approval for Medicaid shall be revoked if these aspects of the proposal are altered.

2. Beds to meet a specific disability need approved through this exception shall be used to meet the need identified.

N. Prior approval from the OCDD is required before admission of all Medicaid recipients to facilities in beds

approved to meet a specific disability need identified in an RFP issued by the department.

O. Exception for approved beds in downsizing large residential ICF-DD facilities (16 or more beds).

1. A facility with 16 or more beds that voluntarily downsizes its enrolled bed capacity in order to establish a group or community home shall be exempt from the bed need criteria.

a. Beds in group and community homes that are approved under this exception are not included in the bed-to-population ratio or occupancy data for group and community homes approved under the FNR program.

2. Any enrolled beds in the large facility will be disenrolled from the Title XIX program upon enrollment of the same number of group or community home beds.

3. When the department intends to downsize the enrolled bed capacity of a state-owned facility with 16 or more beds in order to develop one or more group or community homes, and the approved beds will be owned by the state, a cooperative endeavor agreement (CEA) will be issued.

a. The CEA will be issued and beds shall be made available in accordance with the methods described in this Section;

4. For private facility beds downsized to privately owned group or community homes, these facilities should contact the regional OCDD in the region where the proposed community or group home beds will be located. These proposals do not require FNR approval.

P. Exception for Additional Beds for Certain ICFs-DD

1. Any ICFs-DD that serve children or adults suffering from developmental disabilities, autism, or behavioral problems and that had no less than 150 and no more than 180 approved beds as of August 15, 2003, shall, upon application to the department, be granted approval for up to 50 additional beds without being required to meet the standards set forth in this Section, §12505, or §12513.Q.

Q. Group and community home beds shall be enrolled in the Title XIX program within 12 months of the date of approval by the FNR program.

1. A one-time 90-day extension may be granted, at the discretion of the department, when delays are caused by circumstances beyond the control of the applicant (e.g. acts of God). Inappropriate zoning is not a basis for an extension.

2. If the beds are not enrolled in the Title XIX program within the time limits specified in this Subsection, the approval will automatically expire.

R. Approval of a group or community home bed shall be revoked when the OCDD advises that the bed that was approved for Title XIX reimbursement to meet a specific disability need identified in a RFP issued by the department, is not being used to meet that identified need based on the facility serving a Medicaid recipient in the bed without prior approval from the OCDD.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2116 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health, Health Standards Section, LR 50:

§12515. Pediatric Day Health Care Providers

A. No PDHC provider shall be licensed to operate unless the FNR program has granted an approval for the issuance of

a PDHC provider license. Once the FNR program approval is granted, a PDHC provider is eligible to be licensed by the department, subject to meeting all of the requirements for licensure.

B. For purposes of FNR, the geographic service area for a proposed PDHC facility shall be within a 30 mile radius of the proposed physical location where the provider will be licensed.

C. Determination of Need/Approval

1. The FNR committee will review the application to determine if there is a need for an additional PDHC provider in the geographic service area for which the application is submitted.

2. The FNR committee shall approve the FNR application only if the data contained in the application, and other evidence effectively establishes the probability of serious, adverse consequences to recipients' ability to access healthcare if the provider is not allowed to be licensed.

3. In reviewing the application, the FNR committee may consider, but is not limited to, evidence showing:

- a. the number of other PDHC providers in the same geographic service area servicing the same population; and
- b. allegations involving issues of access to healthcare and services.

4. The burden is on the applicant to provide data and evidence to effectively establish the probability of serious, adverse consequences to recipients' ability to access healthcare if the provider is not allowed to be licensed. The FNR committee shall not approve an FNR application if the application fails to provide such data and evidence.

D. Applications for approvals of licensed providers submitted under these provisions are bound to the description in the application with regard to the type of services proposed as well as to the physical location and/or geographic service area as defined in the application. Facility need review approval of licensed providers shall expire if these aspects of the application are altered or changed.

E. FNR approvals are non-transferable and are limited to the physical location and the name of the original licensee.

1. A PDHC provider undergoing a change of physical location in the same licensed geographic service area shall submit a written attestation of the change of physical location, including the license number, state identification (ID), current address and new address, and the department shall re-issue the FNR approval with the name and new physical location. A PDHC provider undergoing a change of physical location outside of the licensed geographic service area shall submit a new FNR application and appropriate fee and undergo the FNR approval process.

2. A PDHC provider undergoing a change of ownership shall submit a new application to the department's FNR program, requesting a transfer of the FNR approval to the new owner. Facility need review approval for the new owner shall be granted upon submission of the new application and proof of the change of ownership, provided that the legal change of ownership documents require the seller's or transferor's written relinquishment of the FNR approval.

3. FNR approval of a licensed provider shall automatically expire if the provider is moved or transferred

to another party, entity, or location without application to and approval by the FNR program.

F. The following timeframes shall apply for complying with the requirements for obtaining approval of architectural plans and licensure.

1. Pediatric Day Health Care facilities that are to be licensed in existing buildings shall have final architectural plans approved no later than six months from the date of the FNR approval. Such facilities shall be licensed within one year from the date of the FNR approval.

2. PDHC facilities that are to be licensed in newly constructed buildings shall have final architectural plans approved no later than six months from the date of the FNR approval. Such facilities shall be licensed within 24 months from the date of the FNR approval.

3. A one-time 90-day extension may be granted, at the discretion of the department, when delays are caused by circumstances beyond the control of the applicant.

4. Failure to meet any of the timeframes in this Section could result in an automatic expiration of the FNR approval of the PDHC facility.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2116 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health, Health Standards Section, LR 50:

§12517. Nursing Facilities

A. Except as otherwise provided in this Chapter, no nursing facility (NF) shall be licensed and certified or enrolled to participate in the Title XIX program unless the FNR program has granted an approval for an additional NF or additional nursing beds to be licensed and enrolled in the Title XIX program.

NOTE: The statutory moratorium in R.S. 40:2116.1(B), or any successor statute, prohibits the department from issuing new FNR approvals for NF or additional beds in NF until the statutory moratorium expires.

B. The geographic service area for proposed or existing NF or beds is the parish in which the physical location is located.

1. Exception. Any parish that has any portion of the parish below Interstate 10, and that is intersected by the Mississippi River, will be composed of two separate service areas as divided by the Mississippi River.

C. Nursing facility beds located in distinct parts of acute care general hospitals shall be approved through FNR in order to be enrolled to participate in the Medicaid program.

D. In reviewing the need for beds, all proposed beds shall be considered available as of the projected date of the project. The FNR program does not recognize the concept of phasing-in beds, whereby an applicant provides two or more opening dates.

E. For FNRs in which the bed to population ratio is a factor, the bed inventory that will be used is that which is current on the date that the complete application is received.

1. The bed to population ratio will be recomputed during the review period when the report is incorrect due to an error by the department.

F. For FNRs in which utilization is a factor, the occupancy report that will be used is that which is current on the date that the complete application is received.

1. The occupancy rate will be recomputed during the review period when the report is incorrect due to an error by the department.

G. The determination of occupancy rates of nursing facilities or beds shall be as follows:

1. Beds for which occupancy shall be based shall include NF beds (skilled, IC-I, and IC-II) that are enrolled in Title XIX.

2. Each licensed bed shall be considered as available for utilization for purposes of calculating occupancy; and

3. A bed shall be considered in use, regardless of physical occupancy, based on payment for nursing services available or provided to any individual or payer through formal or informal agreement.

H. The beds and population of the geographic service area where the NF is located, or is proposed to be located, will be considered in determining the need for the facility or beds.

1. The beds that are counted in determining need for nursing facilities, are beds that are approved, licensed beds or are approved, unlicensed beds as of the due date for decision on an application.

I. Data sources to be used include information compiled by the FNR program and the middle population projections recognized by the State Planning Office as official projections. Population projections to be used are those for the year that the beds are to be enrolled in the Medicaid program.

J. In order for additional beds or facilities to be added in a service area, the bed-to-population ratio for NF beds shall not exceed 65 Medicaid approved beds per 1,000 elderly population in a service area, and the average annual occupancy for the four most recent quarters (as reported in the LTC-2) shall exceed 95 percent in the service area.

K. Exceptions for areas with high occupancy rates may be considered in the following situations.

1. A Medicaid enrolled NF that maintains 98 percent average annual occupancy of its enrolled beds for the four most recent quarters (as reported in the LTC-2) may apply for approval of additional beds to be enrolled in the Medicaid program.

a. In order for an application to be considered, all approved beds in the facility shall be enrolled in Title XIX.

b. In order for a facility to reapply for additional beds, all approved beds shall be enrolled in Title XIX for the four most recent quarters, as reported in the LTC-2.

c. The number of beds that application may be made shall not exceed 10 beds.

d. In determining occupancy rates for purposes of this exception, only an adjustment of one additional day after the date of death for the removal of personal belongings, shall be allowed if used for that purpose.

i. This adjustment shall not be allowed if nursing services available or provided to another individual are paid for through formal or informal agreement in the same bed for that time period.

e. In determining occupancy rates, more than one NF bed enrolled in Title XIX shall not be considered occupied by the same resident, regardless of payment for nursing services available or provided.

f. For a Medicaid enrolled NF with high occupancy to apply for additional bed approval, documentation of availability of health manpower for the proposed expansion shall be required.

g. For a Medicaid enrolled NF with high occupancy to apply for additional bed approval, for the most recent 36 months preceding the date of application, compliance history and quality of care performance of the applicant facility shall be void of any of the following sanctions:

i. appointment of a temporary manager;

ii. termination, non-renewal or cancellation, or initiation of termination or non-renewal of provider agreement; or

iii. license revocation or non-renewal.

2. When average annual occupancy for the four most recent quarters (as reported in the LTC-2) exceeds 95 percent in a parish, the department will determine whether additional beds are needed, and if indicated, may issue a Request for Proposals (RFP) or Request for Applications (RFA) to develop the needed beds.

a. Upon issuance of the utilization report, the department will identify the parishes with average annual occupancy in excess of 95 percent. The LTC-2 is issued by the department in the fourth month following the end of each calendar quarter.

b. In order to determine if additional beds are needed for each parish that average annual occupancy is in excess of 95 percent, the department may review the census data, utilization trends, and other factors such as:

i. special needs in an area;

ii. information received from other healthcare providers and other knowledgeable sources in the area;

iii. waiting lists in existing nursing facilities;

iv. requests from the community;

v. patient origin studies;

vi. appropriateness of placements in an area;

vii. remoteness of an area;

viii. occupancy rates in adjoining and/or adjacent parishes;

ix. availability of alternatives;

x. reasonableness of distance to nursing facilities;

xi. distribution of beds within a geographic service area; and

xii. such other factors as the department may deem relevant.

c. The number of beds that can be added shall not exceed 15 percent of the existing approved beds in the parish, or 120 beds, whichever is less. The department will strive to assure that occupancy in existing NF in the area will not decline below 85 percent as a result of the additional beds.

3. If the department determines that there is, in fact, a need for beds in a parish with average annual occupancy in excess of 95 percent, a RFP or RFA will be issued. No applications will be accepted under these provisions unless the department declares a need and issues a RFP or RFA. Applications will be accepted for expansions of existing facilities and/or for the development of new nursing facilities.

a. The RFP will be issued and will specify the dates that the department will accept applications. Also, NF in the geographic service area and adjoining parishes will be notified of the issuance of the RFP.

b. The RFP will indicate the parish and/or geographic service area in need of beds, the number of beds

needed, the date that the beds are needed to be available to the target population enrolled in Medicaid, and the factors that the department considers relevant in determining need for the additional beds. The RFP will specify the LTC-2 that the determination of need is based.

c. Applications will be accepted for a 30-day period, to be specified in the RFP. Once submitted, an application cannot be changed and additional information will not be accepted.

d. The RFP or RFA shall specify the following:

- i. application submission requirements;
- ii. a due date for applications;
- iii. process of review by the FNR committee of any applications timely received, including any supplemental review process;
- iv. notice of selection;
- v. information on appeals processes for applicants that are not granted FNR approval; and
- vi. other information or requirements for the RFP or its process, as determined by the department.

e. The FNR committee will review the proposals and independently evaluate and assign points (out of a possible 120) to the applications as follows:

- i. 0-20 points: availability of beds to the Title XIX population;
- ii. 0-20 points: appropriateness of location or proposed location.
- iii. 0-20 points: responsiveness to groups with special needs (e.g., Acquired Immunodeficiency Syndrome patients, ventilator assisted patients, technology dependent patients);
- iv. 0-20 points: experience and availability of key personnel (e.g., director of nursing, administrator, medical director);
- v. 0-20 points: distribution of beds/facilities within the geographic service area. Geographic distribution of existing beds and population density will be taken into account.

f. A score of 0-20 will be given to the applicant's response to each item using the following guideline:

- i. 0 = inadequate response;
- ii. 5 = marginal response;
- iii. 10 = satisfactory response;
- iv. 15 = above average response; and
- v. 20 = outstanding response.

g. If there is a tie for the highest score for a specific facility or beds, the FNR committee will conduct a comparative review of the top scoring proposals that will include prior compliance history, if applicable. The FNR committee may request and review data from OAAS and HSS on prior compliance history. Subject to K.3.h of this Section, the FNR committee will make a decision to approve one of the top scoring applications based on comparative review of the proposals.

h. If no proposals are received that adequately respond to the need, the department may opt not to approve an application.

i. At the end of the review period, each applicant will be notified of the department's decision to approve or disapprove the application. However, the evaluation period may be extended, if provided for in the RFP or RFA.

Applicants will be given 30 days from the date of receipt of the department's notification in which to file an appeal.

j. The issuance of the approval of the application with the highest number of points shall be suspended during the 30-day period for filing appeals and during the pendency of any administrative appeal. All administrative appeals shall be consolidated for purposes of the hearing.

4. Proposals submitted under these provisions are bound to the description in the application with regard to the type of beds and/or services proposed as well as to the site/location as defined in the request issued by the department.

a. Approval for licensing and Medicaid certification shall be revoked if these aspects of the proposal are altered.

L. The following timelines are established for additional NF or beds in NF approved through FNR.

1. Beds that are approved to be added to an existing licensed facility, shall be licensed and enrolled in the Title XIX program within one year of the date of approval by the FNR program.

2. New NF that are approved to be constructed, shall be licensed and enrolled in the Title XIX program within 24 months of the date of the approval by the FNR program.

3. An extension may be granted, at the discretion of the department, when delays are caused by circumstances beyond the control of the applicant (e.g., acts of God). Inappropriate zoning is not a basis for extension.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2116 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health, Health Standards Section, LR 50:

§12519. Alternate Use of Licensed Approved Title XIX Beds

A. In a service area in which average annual occupancy is lower than 93 percent, a nursing home may elect to temporarily convert a number of Title XIX beds to an alternate use (e.g., adult day care).

1. The beds may be converted for alternate use until such time as the average annual occupancy in the service area exceeds 93 percent (based on the LTC-2 report) and the facility is notified of the same.

2. The facility shall then either re-enroll the beds as nursing home beds within one year of receipt of notice from the department that the average annual occupancy in the service area exceeds 93 percent.

3. The approval for beds not re-enrolled by that time will be expired.

B. A facility is prohibited from adding beds when alternately using beds.

C. All approved beds shall be enrolled as nursing home beds in Title XIX for the four most recent quarters, as reported in the department's occupancy report, in order for additional beds to be approved.

D. A total conversion of all beds is prohibited.

E. Unless excepted in accordance with R.S. 40:2116.1, a NF that has converted beds to alternate use may elect to remove the beds from alternate use and re-license and re-enroll the beds as NF beds. The facility has 120 days from removal from alternate use to re-license and re-enroll the beds. Failure to re-license and re-enroll the beds within 120 days will result in the automatic expiration of FNR approval.

F. The NF beds converted to alternate use shall be used solely for the purpose of providing healthcare services at a licensed and/or certified facility.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2116 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health, Health Standards Section, LR 50:

§12521. Additional Beds for Replacement Facility

A. A NF that has had all approved beds enrolled for the four most recent quarters (as reported in the LTC-2) and is structurally older than 25 years, may apply for approval for additional beds to be enrolled in the Medicaid Program in a replacement facility.

B. The number of beds for which an application may be made shall not exceed 20 beds, with the following exception:

1. a facility may be approved for sufficient beds to bring the total approved beds in the replacement facility to 80.

C. A facility shall not be approved for beds that would exceed 130 total approved beds in the replacement facility.

D. Sufficient documentation shall be submitted to demonstrate to the department's satisfaction that the facility is structurally older than 25 years.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2116 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health, Health Standards Section, LR 50:

§12523. Home and Community-Based Service Providers (PCA, RC, SIL, and MIHC Modules Only)

A. Except as otherwise provided in this Chapter, no HCBS provider shall be licensed to operate unless the FNR committee has granted an FNR approval for the issuance of an HCBS provider license. Once the FNR approval is granted, an HCBS provider is eligible to be licensed by the department, subject to meeting all of the requirements for licensure.

B. The geographic service area for proposed or existing HCBS providers is the LDH administrative region that the provider is or will be licensed.

C. Determination of Need/Approval

1. The FNR committee will review the application to determine if there is a need for an additional HCBS provider in the geographic service area for which the application is submitted.

2. The FNR committee shall approve the FNR application only if the data contained in the application, and other evidence effectively establishes the probability of serious, adverse consequences to recipients' ability to access healthcare if the provider is not allowed to be licensed.

3. In reviewing the application, the FNR committee may consider, but is not limited to, evidence showing:

- a. the number of other HCBS providers in the same geographic service area servicing the same population; and
- b. allegations involving issues of access to healthcare and services.

4. The burden is on the applicant to provide data and evidence to effectively establish the probability of serious, adverse consequences to recipients' ability to access healthcare if the provider is not allowed to be licensed. The FNR committee shall not approve an FNR application if it fails to provide such data and evidence.

D. Applications for approvals of licensed providers submitted under these provisions are bound to the description in the application with regard to the type of services proposed as well as to the physical location and/or geographic service area as defined in the application. Facility need review approval of licensed providers shall expire if these aspects of the application are altered or changed.

E. Except as provided in the Subparagraphs below, FNR approvals for licensed providers are non-transferrable and are limited to the physical location and the name of the original licensee.

1. An HCBS provider undergoing a change of physical location in the same licensed geographic service area shall submit a written attestation of the change of physical location, including the license number, state ID, current address and new address, and the department shall re-issue the FNR approval with the name and new physical location. An HCBS provider undergoing a change of physical location outside of the licensed geographic service area shall submit a new FNR application and fee and undergo the FNR approval process.

2. An HCBS provider undergoing a change of ownership shall submit a new application to the department's FNR program, requesting a transfer of the FNR approval to the new owner. Facility need review approval for the new owner shall be granted upon submission of the new application and proof of the change of ownership, provided that the legal change of ownership documents require the seller's or transferor's written relinquishment of the FNR approval.

3. Facility need review approval of a licensed provider shall automatically expire if the provider is moved or transferred to another party, entity, or geographic service area/physical location without application to and approval by the FNR program.

F. FNR-approved HCBS applicants shall become licensed no later than six months from the date of the FNR approval.

1. A one-time 90-day extension may be granted, at the discretion of the department, when delays are caused by circumstances beyond the control of the applicant. Inappropriate zoning is not a basis for extension.

2. Failure to meet any of the timeframes in this Section shall result in an automatic expiration of the FNR approval of the HCBS agency.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2116 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health, Health Standards Section, LR 50:

§12525. Behavioral Health Services Providers (PSR and CPST Only)

A. Except as otherwise provided in this Chapter, no BHSP or applicants seeking to provide psychosocial rehabilitation (PSR) and/or community psychiatric support and treatment (CPST) services shall be eligible to apply for licensure to provide PSR and/or CPST services unless the FNR committee has granted FNR approval for the issuance of a BHSP license for such services. Once the FNR approval is granted, a BHSP is eligible to apply for a BHSP license to provide PSR and/or CPST services.

B. The geographic service area for proposed or existing BHSP shall be defined to include:

1. the parish that the provider's business office is located;
2. any parish contiguous to the parish that the provider's business office is located;
3. any location within a 50 mile radius of the provider's business office; and
4. within a 50-mile radius of one designated offsite location of the licensed BHSP.

NOTE: The geographic service area described in this Part is also applicable to opioid treatment programs licensed as BHSPs.

C. Determination of Need/Approval

1. The FNR committee shall review the FNR application to determine if there is a need for additional BHSPs to provide PSR and/or CPST services in the geographic service area.

2. The FNR committee shall approve the FNR application only if the data contained in the application and other evidence effectively establishes the probability of serious, adverse consequences to recipients' ability to access behavioral health PSR and/or CPST services if the provider is not allowed to be licensed.

3. In reviewing the application, the FNR committee may consider, but is not limited to, evidence showing:

- a. the number of other BHSPs providing PSR and/or CPST services in the same geographic service area and servicing the same population;
- b. the number of members that the BHSP is able to provide PSR and/or PST services to; and
- c. allegations involving issues of access to behavioral health PSR and/or CPST services.

4. The burden is on the applicant to provide data and evidence to effectively establish the probability of serious, adverse consequences to recipients' ability to access behavioral health PSR and/or CPST services if the provider is not granted approval to be licensed. The FNR committee shall not approve an FNR application if it fails to provide such data and evidence.

D. Applications for approvals of BHSPs of PSR and/or CPST services submitted under these provisions are bound to the description in the application with regard to the type of services proposed, as well as to the physical location and/or geographic service area as defined in the application. Facility need review approval of such providers shall expire if these aspects of the application are altered or changed.

E. Except as provided in the Subparagraphs below, FNR approvals for behavioral health PSR and/or CPST applicants are non-transferrable and are limited to the location and the name on the original license.

1. A BHSP of PSR and/or CPST services undergoing a change of physical location in the same licensed geographic service area shall submit a written attestation of the change of physical location, including the license number, state ID, current address and new address, and the department shall re-issue the FNR approval with the name and new physical location. A BHSP undergoing a change of physical location outside of the licensed geographic service area shall submit a new completed FNR application and required fee and undergo the FNR approval process.

2. A BHSP of PSR and/or CPST services undergoing a change of ownership shall submit a new completed

application and required fee to the department's FNR program, requesting a transfer of the FNR approval to the new owner. Facility need review approval for the new owner shall be granted upon submission of the new application and proof of the change of ownership, provided that the legal change of ownership documents require the seller's or transferor's written relinquishment of the FNR approval.

3. Facility need review approval of a licensed BHSP of PSR and/or CPST services shall automatically expire if the provider is moved or transferred to another party, entity, or physical location without application to and approval by the FNR program.

4. Facility need review approved BHSPs of PSR and/or CPST shall become licensed no later than one year from the date of the FNR approval. Failure to meet this timeframe shall result in an automatic expiration of the FNR approval of the BHSP.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2116 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health, Health Standards Section, LR 50:

§12527. Opioid Treatment Program Needs Assessment

A. The department shall conduct an OTP needs assessment to determine if there is a need for new or additional OTPs in a geographic service area. The OTP needs assessment includes criteria and processes that the department utilizes to determine the need for new or additional OTPs in an identified geographic service area. For purposes of this Section, geographic service area follows the criteria established in §12503.H. The OTP needs assessment may include all or some of the following review criteria:

1. estimated prevalence of opioid use disorder in the population of the geographic service area to be served;
2. estimated number of persons in need of medication for opioid use disorder (MOUD) in the geographic service area;
3. estimated demand for MOUD treatment in the geographic service area to be served;
4. existing access, utilization, and availability of MOUD treatment in the geographic service area to be served; and
5. data sources that include information compiled and recognized by the department and/or any of the following: Substance Abuse and Mental Health Services Administration (SAMHSA), the United States Census Bureau, the Drug Enforcement Administration (DEA), the National Institute on Drug Abuse (NIDA), and any other state or federally recognized data surveillance system.

B. The department may conduct additional OTP needs assessments only when special needs and circumstances arise that indicate the need for additional MOUD treatment services, such as increased utilization rates, reduced availability, and/or reduced accessibility of services.

C. Exemptions from OTP needs assessment and OTP FNR application review shall be made for OTP clinics that meet the following criteria:

1. an existing, licensed OTP clinic that is destroyed by fire or a natural disaster, such as hurricane, and that obtains a license for a replacement location within eight months of closure from the fire or natural disaster; or
2. an existing, licensed OTP clinic that is replaced due to potential health hazard in the clinic, and that obtains a

license for a replacement location within 150 days of closing due to the potential health hazard.

NOTE: As it relates to the circumstances of C.1 and 2 of this Section, one extension of no more than three months may be granted by the department, at its discretion, upon receipt of documentation from the OTP provider demonstrating good cause, provided the extension is requested no later than one month from the original deadline.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2116 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health, Health Standards Section, LR 50:

§12529. Opioid Treatment Program - Request for Applications

A. If the department has assessed a need for OTP services in a geographic service area(s) in accordance with §12527, the department will issue an RFA for the specified geographic service area via a statewide public announcement. The RFA will specify the dates that the department will accept applications.

1. The RFA shall specify the following:

- a. geographic service area(s) in need of OTP provider(s);
- b. number of OTP providers needed;
- c. date that the OTP providers need to be available to the target population;
- d. application submission requirements;
- e. a due date for applications;
- f. process of review by the FNR committee of any applications timely received, including any supplemental review process;
- g. notice of selection;
- h. information on appeals processes for applicants that are not granted FNR approval; and
- i. other information or requirements for the RFP or its process, as determined by the department.

2. The RFA shall require the applicant to submit a letter of intent as part of its OTP FNR application. The letter of intent shall include the following:

- a. the name, address, and telephone number of the FNR applicant;
- b. the name of the FNR applicant representative, an individual authorized to respond to the department's questions regarding the application, and who also signs the letter of intent;
- c. the proposed location of the OTP;
- d. a brief statement of the OTP FNR applicant's financial viability and availability of funds;
- e. a brief statement regarding licensure history as a BHSP, and a written work plan demonstrating a timeline to achieve accreditation and licensure as an OTP;
- f. history of compliance with accreditation, licensure and/or certification bodies related to the provision of healthcare services;
- g. range of services and program design;
- h. community integration;
- i. availability, accessibility and appropriateness of the location of the proposed OTP site (e.g., accessibility to public transportation and healthcare providers, location in relation to children's schools and playgrounds, local letters of support from political parties, itemized timeline of action items/dates leading to service start date); and
- j. methods to achieve community integration through a community relations/targeted outreach plan.

3. Any OTP FNR application that fails to provide the required information will not be considered for FNR approval by the FNR committee.

4. Any proposed owner, director, or manager of an OTP applying for OTP FNR approval shall be free of any conviction, guilty plea, or plea of nolo contendere to a felony. If the OTP FNR applicant is an agency, the owners of that agency shall be free of such felony convictions, felony guilty pleas, or plea of nolo contendere to a felony.

5. The RFA shall specify that the FNR applicant designate a representative on the FNR application. This identified representative shall be the only person to whom the department or FNR committee will send notification regarding the decision of the OTP FNR application. If the FNR applicant representative or address changes at any time during the review process, the FNR applicant shall notify the LDH FNR program in writing.

B. All timely and complete OTP FNR applications, received by the department after the department has issued an RFA for new OTP FNR applicants, will be reviewed by the FNR committee to determine FNR approval. Only approved OTP FNR applicants may apply for an OTP license from the department.

C. The FNR committee will review the applications and independently evaluate and assign points to each of the following items, considering the quality and adequacy of the response to meet the need of the project:

1. applicant's financial viability and availability of funds to support the proposed OTP;
2. history of BHSP licensure and a written work plan demonstrating timeline to achieve accreditation and licensure as an OTP;
3. range of services/program design; and
4. community integration plan.

D. Subject to Subsection F below, the highest scoring OTP FNR applicant shall receive FNR approval.

E. In the case of a tie for the highest score, the FNR committee will conduct a comparative review of the top scoring proposals that will include prior compliance history. The FNR committee may request and review data from HSS on prior compliance history. Subject to Subsection F of this Section, the FNR committee will make a decision to approve one of the top scoring applications based on the comparative review of the proposals.

F. If no proposals are received that adequately respond to the need, the FNR committee may opt not to approve an application. In that case, a new RFA will be issued.

G. The OTP FNR applicants will receive written notifications of approvals and denials of FNR applications via certified mail or by electronic mail with a request for an acknowledgement and a read and delivery receipt, or as otherwise specified in the RFA.

H. The OTP FNR applications approved under these provisions are bound to the description in the application with regard to:

1. opioid treatment model;
2. services including but not limited to screening, assessment, counseling, and methadone dosing;
3. communication integration plan;
4. evidence of community supports/partnerships;
5. outreach plan;
6. location; and

7. identified opening date to begin services.

I. The OTP FNR approval shall expire if the aspects of the application listed in Subsection H of this Section are altered. However, the OTP FNR approved provider may submit a request to the FNR committee to request approval to change the proposed location within the approved geographic service area within 30 days of receipt of FNR approval.

J. No FNR committee member shall have a proprietary, financial, professional, or other personal interest of any nature or kind in any OTP.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2116 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health, Health Standards Section, LR 50:

§12531. Behavioral Health Services Providers (OTP Only)

A. No OTP may be licensed in the state of Louisiana unless the department has assessed, in its discretion, a need for a new or additional OTP in the geographic service area in accordance with §12527. For purposes of this Section, the geographic service area follows the criteria established in §12503.H. All licensed OTPs shall be in compliance with all applicable OTP federal, state, and local laws and regulations.

B. Except as otherwise provided in this Chapter or in the Subparagraphs below, FNR approvals are non-transferable and are limited to the physical location and the name of the original licensee identified in the OTP FNR application.

1. Change of Physical Location

a. A licensed OTP provider, including those OTPs who qualify under the grandfather provision, undergoing a change of physical location in the same licensed geographic service area shall submit a written attestation of the change of physical location, including the license number, state ID, current address and new address, and the department shall re-issue the FNR approval with the name and new physical location.

b. A licensed OTP provider, including those OTPs who qualify under the grandfather provision, undergoing a change of physical location outside of the licensed geographic service area shall submit a new FNR application and appropriate fee and undergo the FNR approval process.

2. A licensed OTP provider undergoing a change of ownership shall submit a new application to the department's FNR program, requesting a transfer of the FNR approval to the new owner. Facility need review approval for the new owner shall be granted upon submission of the new application and proof of the change of ownership, provided that the legal change of ownership documents require the seller's or transferor's written relinquishment of the FNR approval.

3. Facility need review approval of a licensed provider shall automatically expire if the provider is moved or transferred to another party, entity, or location without application to and approval by the FNR program.

C. The following timeframes shall apply for complying with the requirements for obtaining LDH licensure as an opioid treatment program after receipt of OTP FNR approval and for complying with all applicable federal, state, and local laws and regulations.

1. An approved OTP that shall operate in existing buildings, shall achieve LDH licensure no later than one year from the date of the OTP FNR approval.

2. For an approved OTP that shall operate in a newly constructed building, licensure shall be achieved no later than 18 months from the date of OTP FNR approval. For approved OTPs that will operate in a newly constructed building, architectural plan approvals shall be obtained no later than six months from the date of the OTP FNR approval.

a. A one-time 90 day extension may be granted, at the discretion of the department, when delays are caused by circumstances beyond the control of the applicant.

b. Inappropriate zoning is not a basis for extension.

3. If the OTP FNR approved location(s) fails for any reason, LDH reserves the right to reissue the RFA. If the approved OTP does not become licensed within these timeframes the OTP FNR approval shall automatically expire.

4. If an approved OTP fails to become licensed within these timeframes, the department may issue a new RFA.

D. An OTP that intends to relinquish its FNR approval prior to the expiration of the timeframes in this Section, shall submit a letter of such intent to the LDH FNR program.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2116 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health, Health Standards Section, LR 50:

§12533. Hospice Providers

A. Except as otherwise provided in this Chapter, no hospice provider shall be licensed to operate unless the FNR program has granted an approval for the issuance of a hospice provider license. Once the FNR approval is granted, a hospice provider is eligible to be licensed by the department, subject to meeting all of the requirements for licensure.

B. The geographic service area for proposed or existing hospice providers is any parish within a 50 mile radius of the proposed physical location where the provider is or will be licensed.

C. Determination of Need/Approval.

1. The FNR committee will review the FNR application to determine if there is a need for an additional hospice provider within a 50 mile radius of the proposed physical location that the application is submitted.

2. The FNR committee shall approve the FNR application only if the data contained in the application and other evidence effectively establishes the probability of serious, adverse consequences to the recipients' ability to access hospice care if the hospice provider is not allowed to be licensed.

3. In reviewing the application, the FNR committee may consider, but is not limited to, evidence showing:

a. the number of other hospice providers within a 50 mile radius of the proposed physical location servicing the same population; and

b. allegations involving issues of access to hospice provider care and services.

4. The burden is on the applicant to provide data and evidence to effectively establish the probability of serious,

adverse consequences to the recipients' ability to access hospice care if the hospice provider is not allowed to be licensed. The FNR committee shall not approve any FNR application if the application fails to provide such data and evidence.

D. Applications for approvals of licensed hospice providers submitted under these provisions are bound to the description in the application with regard to the type of services proposed as well as to the physical location as defined in the application. Facility need review approval of licensed hospice providers shall expire if these aspects of the application are altered or changed.

E. Except as otherwise provided below, FNR approvals for licensed hospice providers are non-transferrable and are limited to the physical location and the name of the original licensee.

1. A hospice provider undergoing a change of physical location within a 50 mile radius of the licensed physical location shall submit a written attestation of the change of physical location, including the license number, state ID, current address and new address, and the department shall re-issue the FNR approval with the name and new physical location. A hospice provider undergoing a change of physical location outside of the 50 mile radius of the licensed physical location shall submit a new FNR application and fee, and undergo the FNR approval process.

2. A hospice provider undergoing a change of ownership shall submit a new FNR application to the department's FNR program, requesting a transfer of the FNR approval to the new owner. Facility need review approval for the new owner shall be granted upon submission of the new application and proof of the change of ownership, provided that the legal change of ownership documents require the seller's or transferor's written relinquishment of the FNR approval.

3. Facility need review approval of a licensed provider shall automatically expire if the hospice provider is moved or transferred to another party, entity or physical location without an application being made to, and approval from the FNR program.

F. The following timeframes shall apply for complying with the requirements for obtaining approval of architectural plans and/or licensure.

1. Hospice outpatient providers shall be licensed within six months from the date of the FNR approval.

2. Hospice inpatient facilities that are to be licensed in existing buildings, shall have final architectural plans approved no later than six months from the date of the FNR approval. Such facilities shall be licensed within one year from the date of the FNR approval.

3. Hospice inpatient facilities that are to be licensed in newly constructed buildings, shall have final architectural plans approved no later than six months from the date of the FNR approval. Such facilities shall be licensed within 24 months from the date of the FNR approval.

4. A one-time 90-day extension may be granted, at the discretion of the department, when delays are caused by circumstances beyond the control of the applicant. Inappropriate zoning is not a basis for an extension.

5. Failure to meet any of the timeframes in this Section shall result in an automatic expiration of the FNR approval of the hospice agency or facility.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and 40:2116 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health, Health Standards Section, LR 50:

Subchapter C. Revocation of Facility Need Review Approvals

§12537. General Provisions

A. Except as provided in Subchapter E and Subchapter F of this Chapter, approval shall be revoked under the following circumstances.

1. A facility's license is revoked, not renewed, or denied unless the facility obtains a license within 120 days from the date of such revocation, nonrenewal or denial.

2. A facility's provider agreement is terminated unless, within 120 days thereof, the facility enters into a new provider agreement.

B. Except as provided in Subchapter E and Subchapter F of this Chapter, beds may not be disenrolled except as provided under the alternate use policy and during the 120-day period to have beds relicensed or recertified. The approval for beds disenrolled will automatically expire except as otherwise indicated.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2116 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health, Health Standards Section, LR 50:

Subchapter D. Relocation of Nursing Facility Beds

§12541. General Provisions

A. A NF's approved beds (e.g. Medicaid FNR approvals) cannot be relocated to a different service area, subject to the exceptions in §12541.C. and §12541.D. below.

B. Approved beds may be relocated in the same service area only under the following conditions:

1. Subject to the exceptions in B.2 and C of this Section all of a NF's approved beds shall be relocated to a single new location.

a. The approval of any beds not relocated to that new location shall be revoked.

2. Notwithstanding the requirements of B.1 of this Section, a partial relocation of approved beds may be affected if the following conditions are met:

a. the approved beds are in a NF owned by a hospital service district as of the date of adoption of this Rule and at the time of the partial relocation;

b. the partial relocation does not place the approved beds in a different service area;

c. the approved beds are relocated to the site of a currently operational hospital owned by the same or a different hospital service district.

i. If the new location is owned by a different hospital service district, the ownership of the approval of the relocated beds shall be transferred to the hospital service district to which the beds are relocated; and

d. no more than 25 percent of the NF's approved beds are relocated.

3. If, within five years after a partial relocation to a hospital site pursuant to B.2 of this Section, the hospital located at that site ceases operations, the relocated beds shall revert to the original facility from which they were relocated. This provision shall not apply to relocations that require a transfer of ownership of the approval of the relocated beds.

4. A hospital service district may relocate or transfer the ownership of the approval of approved beds pursuant to B.2.c of this Section only once.

5. Subsection B.2-4 of this Section are not intended to prohibit or restrict the relocation of all of the approved beds in a NF by a hospital service district in accordance with Subsections A and B.1 of this Section.

C. In addition to §12541.B approved beds may be relocated in the same service district or same parish under the following conditions.

1. The department may approve a one-time partial relocation/transfer of a NF's Medicaid FNR approvals to another licensed, certified, operational NF in the same parish, provided that all of the following provisions are met.

a. The transferring NF shall send a written request to the department's licensing section at least 30 days before the proposed transfer, for the department's review and approval.

b. The transferring NF may relocate/transfer Medicaid FNR approvals to another NF pursuant to §12541.C only once.

c. The transferring NF and the receiving NF shall be related companies that are under common ownership.

i. For purposes of §12541.C, common ownership is defined as the same persons or entities owning at least 80 percent of both companies.

ii. For purposes of §12541.C, ownership includes, but is not limited to, shares in a corporation, membership in a limited liability company, or partnership interest in a partnership or limited liability partnership.

d. The transferring NF may not relocate/transfer less than 10 Medicaid FNR approvals to another NF.

e. A transferring NF may not relocate/transfer more than 25 percent of its Medicaid FNR approvals to another facility.

f. The Medicaid FNR approvals relocated/transferred become Medicaid FNR approvals of the receiving NF, and the transferring NF relinquishes all rights in those Medicaid FNR approvals, but may retain licensure of the licensed NF beds.

g. At the time of the relocation/transfer of the Medicaid FNR approvals, the receiving facility shall have more licensed NF beds than it has Medicaid FNR approvals. The number of Medicaid FNR approvals transferred shall not exceed the number of licensed-only beds (e.g., licensed NF beds not having Medicaid FNR approval) at the receiving NF. The receiving NF is prohibited from receiving more Medicaid FNR approvals than can be utilized for the receiving NF's current licensed bed capacity. Under no circumstances shall a receiving facility license additional beds in order to accommodate the relocated Medicaid FNR approvals. After the relocation, the receiving NF shall have the same number of licensed beds as prior to the relocation.

h. All relocated Medicaid FNR approvals are subject to state and federal bed change guidelines and procedures.

i. The provisions of §12535.C pertaining to the transfer of Medicaid FNR approvals shall sunset in 24 months from the date of the promulgation of the final Rule implementing §12535.C and shall have no effect henceforth.

D. In addition to Subsections B and C of this Section, Medicaid FNR approvals of an existing licensed and certified NF that is awaiting the completion of a replacement NF 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 NF'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 NF shall send a written request to the department's HSS 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 NF 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 NF.

c. The temporarily relocating NF 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 NF 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 NF license issued by the department.

f. The temporary license shall expire six months from the date of issuance and the facility shall relocate to its new replacement NF 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 NF shall not accept any new admissions to the facility.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2116 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health, Health Standards Section, LR 50:

Subchapter E. Nursing Facility Bed Abeyance §12545. General Provisions

A. A NF may have all of its approved beds disenrolled from the Medicaid program and placed in abeyance if the department determines that the average annual occupancy in the service area where the facility is located is less than 85 percent. The department shall base this determination on the occupancy figures contained in the most recent LTC-2 report issued by the department prior to its receipt of a written request that the facility's beds be placed in abeyance in accordance with §12545.B.

B. In order to request that a facility's beds be placed in abeyance, all persons or entities who are the holders of the approval, the NF license, and the Medicaid provider agreement shall submit to the department a written request

signed by each such person or entity. The written request shall:

1. specify the date, that shall be no later than 120 days after the receipt of the request by the department that the intended closure of the facility will occur; and

2. designate an individual, referred to hereafter as the designated contact person, who shall serve as the contact between the party(ies) submitting the request and the department with respect to all matters involving the placing of the facility's beds in abeyance and their removal from abeyance.

a. The written request shall include the mailing address and telephone number of that person.

b. If the designated contact person is changed, a written notice thereof, signed by each person or entity who submitted the original request, shall be given to the department.

C. If the department determines that the requirements set forth in §12545.A and B have been met, it shall issue a written Notice of Abeyance and forward it to the designated contact person within 30 calendar days after its receipt of the request for abeyance, subject to the provisions of §12545.L. If the department determines that these requirements have not been met or that the issuance of a Notice of Abeyance would conflict with §12545.L, it shall issue a written denial and forward it to the designated contact person within 30 calendar days after its receipt of the request.

D. All of a facility's approved beds shall be disenrolled from the Medicaid Program within 120 days after the designated contact person's receipt of a Notice of Abeyance. An extension not to exceed 90 days may be granted if extenuating circumstances warrant said extension, such as safe transfer of patients. Otherwise, the Notice of Abeyance will automatically expire at the end of the 120-day period.

E. All of a facility's approved beds may be disenrolled before the designated contact person's receipt of a Notice of Abeyance. However, if he or she does not receive a Notice of Abeyance within 120 days after the beds are disenrolled, the provisions of §12527.D and E will be applicable.

F. With respect to the facility's beds that are not designated to be re-enrolled as Medicaid NF beds, the approval shall automatically expire after 120 days from receipt of the Notice of Abeyance by the designated contact person, unless the beds are re-enrolled by that date, thus rescinding the Notice of Abeyance.

G. A Notice of Abeyance shall remain in effect until the facility's beds are taken out of abeyance and are re-enrolled in Medicaid.

H. A facility's beds shall remain in abeyance until the average annual occupancy in the facility's service area, as shown in the most recent LTC-2 report, has exceeded 93 percent.

I. If the department determines that the average annual occupancy in the facility's service area, as shown in the most recent LTC-2 report has exceeded 93 percent, it shall give written notice thereof to the designated contact person.

1. The written notice shall specify the number of the facility's approved beds that must be taken out of abeyance and re-enrolled as Medicaid NF beds.

2. That number shall be determined by the department based upon the following criteria.

a. A NF with 120 or fewer enrolled beds at the time of the request may return all of its enrolled beds from abeyance.

b. A NF with 121 to 160 enrolled beds at the time of the request may return up to 80 percent of its beds from abeyance, but in no case shall it be required to return fewer than 120 beds.

c. A NF with 161 or more enrolled beds at the time of the request may return up to 75 percent of its beds from abeyance, but in no case shall it be required to return fewer than 128 beds, nor shall it be allowed to return more than 175 beds.

d. A NF may choose to return fewer beds from abeyance than are allowed by this Subparagraph and if it does so, the balance of the beds shall be disenrolled.

J. Within one year after the receipt of the written notice described in §12545.I, or in the case of new construction for a replacement facility, within 24 months after the receipt of such notice, the beds specified by the department shall be taken out of abeyance and re-enrolled as Medicaid NF beds.

1. An extension of that time may be granted at the discretion of the department, when delays are caused by circumstances beyond the control of the applicant (e.g., acts of God).

2. Inappropriate zoning is not a basis for extension.

3. If the facility's beds that are designated to be re-enrolled as Medicaid NF beds are not re-enrolled within the specified time period, the approval for those beds will automatically expire at the end of that period.

K. If, after issuing the written notice provided in §12545.I to the designated contact person, the department determines that the requirement set forth in §12545.H is no longer met, the obligation to place the facility's beds back in service in accordance with §12545.J shall not be affected or negated.

L. If two or more requests to place beds in abeyance are pending at the same time, and the issuance of Notices of Abeyance for all of the pending requests would conflict with §12545.L, priority shall be assigned to the requests as follows.

1. If two or more facilities are located in the same service area, a request with respect to a facility having a lower average annual occupancy rate shall have priority over a request with respect to a facility having a higher average annual occupancy rate, based on the most recent LTC-2 report issued by the department.

M. While a facility's beds are in abeyance, the ownership of the approval for those beds may not be transferred and shall not be subject to any legal instrument purporting to transfer a bed.

N. All of a facility's beds that are taken out of abeyance and re-enrolled in the Medicaid program, shall remain located together in one facility that shall be either the original facility in which they were located before being placed in abeyance or another facility located in the same service area as the original facility.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2116 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health, Health Standards Section, LR 50:

**Subchapter F. Exception Criteria for Facility Need
Review Bed Approvals**

§12549. Declared Disasters and Emergency Events

A. The FNR approvals for a licensed and Medicaid certified NF, ICF/DD, ARCP, hospice, PDHC, BHSP of CPST, PSR or OTP services, or an HCBS provider of RC, PCA, SIL, or MIHC services, located in an area or areas that have been affected by an executive order or proclamation of emergency or disaster issued in accordance with R.S. 29:724 or R.S. 29:766, shall remain in effect and shall not be terminated, revoked, or considered to have expired for a period not to exceed two years for a NF or ARCP, and one year for an ICF/DD, a hospice, PDHC, BHSP of CPST, PSR, or OTP services, or an HCBS provider of RC, PCA, SIL, or MIHC services, following the original date of such executive order or proclamation, provided that the following conditions are met:

1. The NF, ICF/DD, ARCP, hospice, PDHC, BHSP of CPST, PSR, or OTP services, or and HCBS provider of RC, PCA, SIL, or MIHC services, shall submit written notification to the Health Standards Section within 60 days of the date of the executive order or proclamation of emergency or disaster that:

a. the NF, ICF/DD, ARCP, hospice, PDHC, BHSP of CPST, PSR, or OTP services, or an HCBS provider of RC, PCA, SIL, or MIHC services, has experienced an interruption in the provision of services as a result of events that are the subject of such executive order or proclamation of emergency or disaster issued in accordance with R.S. 29:724 or R.S. 29:766;

b. the NF, ICF/DD, ARCP, hospice, PDHC, BHSP of CPST, PSR, or OTP services or, an HCBS provider of RC, PCA, SIL, or MIHC services, intends to resume operation as a NF, ICF/DD, ARCP, hospice, PDHC, BHSP of CPST, PSR, or OTP services, or an HCBS provider of RC, PCA, SIL, or MIHC services, in the same geographic service area;

i. if the ICF/DD was approved through a request for proposal (RFP), the ICF/DD shall conform to the requirements of the RFP as defined by the department;

c. the facility includes an attestation that the emergency or disaster is the sole causal factor in the interruption of the provision of services; and

d. pursuant to these provisions, an extension of the 60-day deadline may be granted at the discretion of the department.

2. A NF, ICF/DD, ARCP, hospice, PDHC, BHSP provider of CPST, PSR, or OTP services, or an HCBS provider of RC, PCA, SIL, or MIHC services resumes operating as a NF, ICF/DD, ARCP, hospice, PDHC, BHSP provider of CPST, PSR, or OTP services, or an HCBS provider of RC, PCA, SIL, or MIHC services in the same geographic service area, within two years for a NF or ARCP and within one year for an ICF/DD, a hospice, PDHC, BHSP provider of CPST, PSR, or OTP services, or an HCBS provider of RC, PCA, SIL, or MIHC services of the original executive order or proclamation of emergency or disaster issued in accordance with R.S. 29:724 or R.S. 29:766;

3. The NF, ICF/DD, ARCP, hospice, PDHC, BHSP of CPST, PSR, or OTP services, or an HCBS provider of RC, PCA, SIL, or MIHC services, continues to submit licensure required documentation and information to the department, as requested;

4. All necessary repairs shall be completed, and all construction plans by all required agencies shall be approved during the period described in Paragraph 2 of §12549.A; and

5. if a provider temporarily relocates to another licensed location as a result of an executive order or proclamation of emergency or disaster issued in accordance with R.S. 29:724 or R.S. 29:766, such relocation shall not extend beyond the period described in Paragraph 2 of §12549.A.

B. For good cause shown, the department may, in its sole discretion, grant two extensions of six months each, for a total of twelve additional months, to a facility described in Subsection A of this Section, during which time the FNR approvals shall remain in effect and not be terminated, revoked, or considered to have expired, provided that the following conditions are met:

1. A NF, ICF/DD, ARCP, hospice, PDHC, BHSP provider of CPST, PSR, or OTP services, or an HCBS provider of RC, PCA, SIL, or MIHC services submits a written extension request to the department 30 days prior to the expiration of the original time period established in Subsection A of this Section or the expiration of the first extension granted under these provisions.

a. The written extension request shall include evidence of progress in re-opening, including construction and expenditures on the repairs to or replacement of the facility.

b. The written extension request shall include an estimated re-opening date for the facility.

2. The facility resumes operating as a NF, ICF/DD, ARCP, hospice, PDHC, BHSP provider of CPST, PSR, or OTP services, or an HCBS provider of RC, PCA, SIL, or MIHC services in the same geographic service area, within the time period of the extension(s).

3. The facility continues to submit the required documentation and information to the department, as requested.

C. The provisions of this Section shall not apply to:

1. a NF, ICF/DD, ARCP, hospice, PDHC, BHSP provider of CPST, PSR, or OTP services, or an HCBS provider of RC, PCA, SIL, or MIHC services that has voluntarily surrendered its FNR bed approval; or

2. a NF, ICF/DD, ARCP, hospice, PDHC, BHSP provider of CPST, PSR, or OTP services, or an HCBS provider of RC, PCA, SIL, or MIHC services that fails to resume operations as a NF, ICF/DD, ARCP, hospice, PDHC, BHSP provider of CPST, PSR, or OTP services, or an HCBS provider of RC, PCA, SIL, or MIHC services in the same service area, within two years for a NF or ARCP and within one year for an ICF/DD, hospice, PDHC, BHSP provider of CPST, PSR, or OTP services, or an HCBS provider of RC, PCA, SIL, or MIHC services or within the deadlines of any extensions granted thereto, of the original executive order or

proclamation of emergency or disaster issued in accordance with R.S. 29:724 or R.S. 29:766.

D. Failure to comply with any of the provisions of this Section shall be deemed a voluntary surrender of the FNR bed approvals.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2116 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health, Health Standards Section, LR 50:

§12551. Non-Declared or Other Emergency Events

A. This section applies to emergency situations that an executive order or proclamation of emergency or disaster pursuant to R.S. 29:724 or R.S. 29:766 has not been issued.

B. The FNR approvals for a licensed and Medicaid certified NF, ARCP, ICF/DD, hospice, PDHC, BHSP provider of CPST, PSR, or OTP services, or an HCBS provider of RC, PCA, SIL, or MIHC services that is rendered unable to provide services to the public because of an emergency situation or disaster, including, but not limited to, fire, flood, tornado, or other condition that the provider is not primarily responsible, shall remain in effect and shall not be terminated, revoked, or considered to have expired for a period not to exceed two years for a NF and ARCP, and one year for an ICF/DD, hospice, PDHC, BHSP of CPST, PSR, and OTP services, or an HCBS provider of RC, PCA, SIL, or MIHC services, following the date of such emergency situation or disaster, provided that the following conditions are met:

1. the NF, ARCP, ICF/DD, hospice, PDHC, BHSP of CPST, PSR, and OTP services, or an HCBS provider of RC, PCA, SIL, or MIHC services shall submit written notification to the HSS within 30 calendar days of the date of the emergency situation or disaster that:

a. the NF, ARCP, ICF/DD, hospice, PDHC, BHSP provider of CPST, PSR, or OTP services, or an HCBS provider of RC, PCA, SIL, or MIHC services has experienced an interruption in the provisions of services as a result of conditions that are described in §12551.B;

b. the NF, ARCP, ICF/DD, hospice, PDHC, BHSP of CPST, PSR, or OTP services, or an HCBS provider of RC, PCA, SIL, or MIHC services intends to resume operation as a NF, ARCP, ICF/DD, hospice, PDHC, BHSP of CPST, PSR, or OTP services, or an HCBS provider of RC, PCA, SIL, or MIHC services in the same service area;

i. if the ICF/DD was approved through an RFP, the ICF/DD shall conform to the requirements of the RFP as defined by the department; and

c. includes an attestation that the emergency situation or disaster is the sole causal factor in the interruption of the provision of services;

2. the NF, ARCP, ICF/DD, hospice, PDHC, BHSP of CPST, PSR, or OTP services, or an HCBS provider of RC, PCA, SIL, or MIHC services resumes operating in the same geographic service area, within two years for a NF or ARCP, and within one year for an ICF/DD, hospice, PDHC, BHSP of CPST, PSR, or OTP services, or an HCBS provider of RC, PCA, SIL, or MIHC services of the non-declared emergency or disaster; and

3. the NF, ARCP, ICF/DD, hospice, PDHC, BHSP of CPST, PSR, or OTP services, or an HCBS provider of RC, PCA, SIL, or MIHC services continues to submit the required documentation and information to the department, as requested.

E. The provisions of this Section shall not apply to:

1. a NF, ARCP, ICF/DD, hospice, PDHC, BHSP of CPST, PSR, or OTP services, or an HCBS provider of RC, PCA, SIL, or MIHC services that has voluntarily surrendered its FNR bed approval; or

2. a NF, ARCP, ICF/DD, hospice, PDHC, BHSP of CPST, PSR, or OTP services, or an HCBS provider of RC, PCA, SIL, or MIHC services that fails to resume operations in the same geographic service area, within two years for a NF or ARCP, and within one year for an ICF/DD, hospice, PDHC, BHSP of CPST, PSR, or OTP services, or an HCBS provider of RC, PCA, SIL, or MIHC services of the non-declared emergency or disaster.

F. Failure to comply with any of the provisions of this Section shall be deemed a voluntary surrender of the FNR bed approvals.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2116 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health, Health Standards Section, LR 50:

§12553. Temporary Inactivation Due to Major

Alterations

A. A licensed NF, ARCP, ICF/DD, hospice, PDHC, or BHSP of CPST, PSR, or OTP services, or an HCBS provider of RC, PCA, SIL, or MIHC services that is undergoing major alterations to its physical plant may request a temporary inactivation of a certain number of the facility's FNR bed approvals provided that:

1. the NF, ARCP, ICF/DD, hospice, PDHC, or BHSP of CPST, PSR, or OTP services, or an HCBS provider of RC, PCA, SIL, or MIHC services submits a written request to the licensing agency of the department seeking temporary inactivation of a certain number of its FNR bed approvals. Such written request shall include the following:

a. a statement that the NF, ARCP, ICF/DD, hospice, PDHC, BHSP of CPST, PSR, or OTP services, or an HCBS provider of RC, PCA, SIL, or MIHC services is undergoing major alterations to ensure or enhance the health, safety, and welfare of the residents;

b. a statement that the major alterations to the NF, ARCP, ICF/DD, hospice, PDHC, or BHSP of CPST, PSR, or OTP services, or an HCBS provider of RC, PCA, SIL, or MIHC services will cause a certain number of beds to be de-licensed and dis-enrolled;

c. an attestation that the major alterations are the sole causal factor in the request for temporary inactivation of a certain number of the facility's FNR bed approvals;

d. the anticipated start date of the temporary inactivation of a certain number of the facility's FNR bed approvals;

e. the anticipated end date of the temporary inactivation of a certain number of the facility's FNR bed approvals; and

f. the number of the facility's FNR bed approvals requested to be inactivated temporarily;

2. upon receipt of a completed written request by a facility for temporary inactivation of FNR approvals for a NF, ARCP, ICF/DD, hospice, PDHC, BHSP of CPST, PSR, or OTP services, or an HCBS provider of RC, PCA, SIL, or MIHC services, the department shall issue a notice of temporary inactivation of a certain number of the facility's FNR bed approvals;

3. upon completion of the major alterations and meeting the requirements for licensure, the facility shall submit to the department a completed written request to reinstate the FNR bed approvals that were inactivated due to the major alterations to the facility;

4. the FNR bed approvals capacity, after major alterations are completed, shall not exceed the FNR bed approvals capacity of the NF, ARCP, ICF/DD, hospice, PDHC, BHSP of CPST, PSR, or OTP services, or an HCBS provider of RC, PCA, SIL, or MIHC services at the time of the request to temporarily inactivate a certain number of its FNR bed approvals prior to the major alterations.

5. the provisions of this Subsection shall not apply to:

a. a NF, ARCP, ICF/DD, hospice, PDHC, BHSP of CPST, PSR, or OTP services, or an HCBS provider of RC, PCA, SIL, or MIHC services, that has voluntarily surrendered its license or has voluntarily dis-enrolled the facility's beds from Medicaid; or

b. a NF, ARCP, ICF/DD, hospice, PDHC, or BHSP of CPST, PSR, or OTP services, or an HCBS provider of RC, PCA, SIL, or MIHC services that fails to resume operations in the same geographic service area, within two years for a NF or ARCP, and within one year for an ICF/DD, hospice, PDHC, BHSP of CPST, PSR, or OTP services, or an HCBS provider of RC, PCA, SIL, or MIHC services.

6. failure to comply with any of the provisions of this Section shall be deemed a voluntary surrender of the FNR bed approvals.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2116 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health, Health Standards Section, LR 50:

Family Impact Statement

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed Rule on the family has been considered. It is anticipated that this proposed Rule will have no impact on family functioning, stability and autonomy as described in R.S. 49:972.

Poverty Impact Statement

In compliance with Act 854 of the 2012 Regular Session of the Louisiana Legislature, the poverty impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will have no impact on child, individual, or family poverty in relation to individual or community asset development as described in R.S. 49:973.

Small Business Analysis

In compliance with the Small Business Protection Act, the economic impact of this proposed Rule on small businesses has been considered. It is anticipated that this proposed Rule will have an indeterminable impact on small business healthcare providers since there is no way to determine how many small business healthcare providers will no longer be required to pay nonrefundable facility need review (FNR) application fees, or how many small business healthcare providers may experience delays in their ability to operate and generate income as a result of the time required to receive FNR approval.

Provider Impact Statement

In compliance with House Concurrent Resolution (HCR) 170 of the 2014 Regular Session of the Louisiana Legislature, the provider impact of this proposed Rule has

been considered. It is anticipated that this proposed Rule will have no impact on the staffing level requirements or qualifications required to provide the same level of service. Implementation of this proposed Rule is anticipated to result in an indeterminable impact on healthcare providers since there is no way to determine how many healthcare providers will no longer be required to pay nonrefundable FNR application fees, or how many healthcare providers may experience delays in their ability to operate and generate income as a result of the time required to receive FNR approval.

Public Comments

Interested persons may submit written comments to Tashka Dukes, RN, Health Standards Section, P.O. Box 3767, Baton Rouge, LA 70821. Ms. Dukes is responsible for responding to inquiries regarding this proposed Rule. The deadline for submitting written comments is at 4:30 p.m. on December 1, 2023.

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 4:30 p.m. on November 9, 2023. If the criteria set forth in R.S. 49:961(B)(1) are satisfied, LDH will conduct a public hearing at 9:30 a.m. on November 29, 2023 in Room 118 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 November 9, 2023. 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.

Stephen R. Russo, JD
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Facility Need Review

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

It is anticipated that implementation of this proposed rule will have no programmatic fiscal impact to the state other than the cost of promulgation for FY 23-24. It is anticipated that \$8,316 will be expended in FY 23-24 for the state's administrative expense for promulgation of this proposed rule and the final rule.

This proposed rule repeals and replaces the provisions of LAC 48.I. Chapter 125 in its entirety in order to re-promulgate the provisions in compliance with Act 531 of the 2022 Regular Session of the Louisiana Legislature, and to include requirements for Opioid Treatment Program (OTP) and application reviews.

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

It is anticipated that the implementation of this proposed rule will not affect federal revenue collections as this measure has no impact on licensing fees. It is anticipated that implementation of this proposed rule may result in an indeterminable impact on state revenue collections in FY 23-24, FY 24-25, and FY 25-26, as Behavior Health Service

providers that wish to offer OTP services will be required to pay a nonrefundable FNR application fee; however, ARCPs will no longer be required to pay the nonrefundable FNR application fees.

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

Adult Residential Care Providers (ARCPs) will no longer be required to pay nonrefundable FNR application fees. However, Behavioral Health Services providers of opioid treatment program (OTP) services are now subject to the facility need review (FNR) requirements of Act 531 of the 2022 Regular Session of the Louisiana Legislature, and must obtain FNR approval from the FNR committee prior to obtaining licensure as a BHS provider of OTP services. It is anticipated that implementation of this proposed rule may result in an indeterminable cost savings to ARCPs in FY 23-24, FY 24-25, and FY 25-26, but may adversely impact healthcare providers if the time required to receive FNR approval causes delays in their ability to operate and generate income.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This rule has no known effect on competition and employment.

Tasheka Dukes, R.N.
Deputy Assistant Secretary
2310#041

Patrice Thomas
Deputy Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Health
Office of Public Health**

Automated External Defibrillators
(LAC 48:I.Chapter 61)

Under the authority of R.S. 36:254(B)(7) and R.S. 40:1137.3, and in accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Department of Health, Office of Public Health (LDH-OPH) intends to amend Chapter 61 (Automated External Defibrillators) of Subpart 3 (Licensing and Certification) of Part I (General Administration) of Title 48 (Public Health—General) of the Louisiana Administrative Code (LAC). The proposed amendments are necessary to update and revise the Chapter generally, and to match the amendments to R.S. 40:1137.3 made by Act 234 of the 2023 Regular Session.

The proposed Rule amends the Chapter by incorporating changes that revise and augment included definitions, revise and augment certain substantive requirements, and revise and augment the compliance and enforcement provisions, including revised procedures and methodology related to the imposition of monetary penalties.

The proposed Rule also implements the new requirements for postsecondary education institutions, high schools, middle schools, and elementary schools set forth in Act 234 of the 2023 Regular Session, including the requirement that schools and institutions sponsoring intercollegiate or interscholastic athletic events have an AED and a trained user also trained in first-aid CPR at such events, as well as a “cardiac emergency response plan”. The Rule provides that such requirements do not become effective until the beginning of the 2024-2025 school year, pursuant to Section 2 of Act 234.

Title 48

PUBLIC HEALTH—GENERAL

Part I. General Administration

Subpart 3. Licensing and Certification

Chapter 61. Automated External Defibrillators

§6101. Purpose and Definitions

A. Purpose. These rules establish standards for the maintenance of automated external defibrillators for the owner of or the entity responsible for a physical fitness facility each postsecondary education institution, any postsecondary education institution that sponsors an intercollegiate athletic event, each elementary, middle and high school, and any elementary, middle, or high school that sponsors an interscholastic athletic event that possesses an automated external defibrillator.

B. ...

Bureau—unless otherwise specified, the Bureau of Emergency medical Services within the Office of Public Health of the Louisiana Department of Health.

Bureau of Emergency Medical Services (Bureau of EMS, BEMS)—the EMS regulatory agency that licenses EMS practitioners; ambulance services/providers and enforces compliance of legislation that regulates telecommunicators and possessors of AEDs.

Cardiac Emergency Response Plan—a document written by the principal, president, or chancellor, or chief executive of a postsecondary education institution, elementary, middle, or high school, in collaboration with local emergency responders, that establishes the specific steps to reduce death from cardiac arrest at an intercollegiate or interscholastic athletic event.

Cardiac Emergency Response Team—a group of a minimum of two, but preferably four, individuals credentialed in pediatric, child, and adult CPR and use of an AED.

Credentialed—adult and pediatric expected CPR providers and expected AED users who have completed an adult and pediatric CPR and AED course recognized by a nationally recognized organization or association such as the American Heart Association (AHA), the American Red Cross (ARC), the National Safety Council and the Emergency Medical Physicians of America, or the equivalent cardiopulmonary resuscitation credential that has been approved by the Louisiana Department of Health.

High School—an education facility that typically comprises of grades nine through twelve.

Information Management System—an electronic system used to collect, analyze, and process data that is entered and/or uploaded into the system

Intercollegiate Athletic Events—athletic or sporting competitions between or among postsecondary education institutions, hosted or sponsored by one or more participating institutions.

Interscholastic Athletic Event—athletic or sporting competitions or activities between or among different elementary, middle, or high schools, hosted or sponsored by one or more participating schools.

Middle School—an education facility that typically includes grades seven and eight but may also include grades six and nine; also referred to as Junior High School.

* * *

Possessor—any person, service, business, industry, physical fitness facility, entity, postsecondary education institution participating in intercollegiate sport, or security vehicle possessing an AED.

Postsecondary Education Institution—an institution that offers education following successful completion of high school or equivalent (e.g. GED); such institutions provide a higher level of education, and include universities, colleges, and trade, technical, and professional schools.

Premises—the physical facility, its contents, and the contiguous land or property under the control of a person or entity, and may mean a room, shop, building, field, or other definite area.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:258(B) and R.S. 40:1137.3(F).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, Bureau of Emergency Medical Services, LR 38:2928 (November 2012), amended by the Department of Health, Office of Public Health, Bureau of Emergency Medical Services, LR 47:742 (June 2021), LR 50:

§6103. General Provisions

A. General Requirements of a Possessor

1. A possessor's responsibility and requirements are as follows:

a. The AED must be maintained and tested according to the manufacturer's guidelines; in accordance with state and federal rules and polices, including review of product warranty expirations for AED machine, pads and batteries.

b. Expected AED users must receive appropriate training in CPR and in the use of an AED by the American Heart Association, American Red Cross, or the equivalent cardiopulmonary resuscitation credential that has been approved by LDH.

c. The local provider of emergency medical services (EMS) (such as a 911 service, local ambulance service, or fire department) must be activated by the possessor as soon as possible when an individual renders emergency care to an individual in cardiac arrest by using CPR or an AED. It is the responsibility of the individual rendering the emergency care to activate the local EMS provider.

d. The possessor must comply with all applicable requirements of R.S. 40:1137.3.

2. Any manufacturer, wholesale supplier, or retailer of an AED must notify purchasers of AED's intended for use in the state of Louisiana of the requirements of R.S. 40:1137.3.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1137.3(F).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, Bureau of Emergency Medical Services, LR 38:2929 (November 2012), amended by the Department of Health, Office of Public Health, Bureau of Emergency Medical Services, LR 47:742 (June 2021), LR 50:

§6105. Requirements and Reports

A. General Plan and Usage Review

1. All entities that are required by R.S. 40:1137.3 or this Chapter to possess an AED must have a written CPR/AED guideline or plan for use during a sudden cardiac arrest (SCA)

B. Additional Requirements for a Physical Fitness Facility or Physical Fitness Center

1. After every event in which an AED is used, it is the responsibility of the physical fitness facility or physical fitness center to immediately replenish the AED supplies that were used and prepare the device to be ready for the next event.

2. The owner of or the entity responsible for either a physical fitness facility or a physical fitness center, must keep an AED on its premises, and must conduct routine testing and maintenance as prescribed by the manufacturer.

C. Additional Requirements for Postsecondary Education Institutions, Effective upon the Beginning of the 2024-2025 School Year

1. A cardiac emergency response plan must be written and identify the members of the cardiac emergency response team. At a minimum, the plan must include:

- a. establishing a cardiac emergency response team;
- b. activating the team in response to a sudden cardiac arrest;
- c. implementing AED placement and routine maintenance within the institution;
- d. maintaining ongoing staff training in CPR and AED use;
- e. practicing using drills;
- f. integrating local EMS with the plan; and
- g. annually reviewing and evaluating the plan.

2. After every event in which an AED is used, it is the responsibility of the postsecondary education institution to immediately replenish the AED supplies that were used and prepare the device to be ready for the next event.

3. Each postsecondary education institution shall register the institution in the Bureau of EMS Information Management System.

a. This registration shall include, but is not limited to, the following information, and is subject to the following requirements:

- i. name and title of the individual(s) responsible for the maintenance and testing of the AED(s);
- ii. name and title of the individual(s) trained to utilize the AED(s);
- iii. location of all AED(s);
- iv. serial number/identification number of all AED(s);
- v. schedules and timeframes for required maintenance;
- vi. name of agency issuing training credential, name of individuals completing the credentialing training, date of recommended renewal of training;
- vii. name of the individual providing medical oversight;
- viii. initial registration shall occur within 60 days of the effective date of this Subsection, and any change in or addition to required information shall be uploaded to the

Bureau of EMS information management system within 30 days from the date of occurrence;

ix. each postsecondary education institution shall have an AED on its premises in an easily accessible location, which location shall be within the athletic department if it has such a department; and

x. any postsecondary education institution that sponsors or hosts an intercollegiate athletic event shall have an AED and a trained AED user who is also trained in first-aid CPR at the event.

D. Additional Requirements for Postsecondary Education Institutions Effective until the Beginning of the 2024-2025 School Year

1. Any institution of higher education that competes in intercollegiate athletics must have an AED on its premises in its athletic department, with posters approved by AHA/ARC on how to safely perform CPR and use the AED. The AED must be placed in open view within 2 feet of a telephone to readily enable a call to 911 from within the athletic department. It must also be placed in an area with easy access to coaches and athletic personnel where athletes are training and/or competing.

E. Additional Requirements for elementary, middle, and high schools, effective upon the beginning of the 2024-2025 school year.

1. A cardiac emergency response plan must be written and identify the members of the cardiac emergency response team. At a minimum, the plan must include:

- a. establishing a cardiac emergency response team;
- b. activating the team in response to a sudden cardiac arrest;
- c. implementing AED placement and routine maintenance within the institution;
- d. maintaining ongoing staff training in CPR and AED use;
- e. practicing using drills;
- f. integrating local EMS with the plan; and
- g. annually reviewing and evaluating the plan.

2. After every event in which an AED is used, it is the responsibility of the educational facility to immediately replenish the AED supplies that were used and prepared the device to be ready for the next event.

3. Each elementary, middle, and high school shall register the education facility in the Bureau of EMS information management system

a. This registration shall include, but is not limited to, the following information, and is subject to the following and requirements:

- i. name and title of the individual(s) responsible for the maintenance and testing of the AED(s);
- ii. name and title of the individual(s) who have completed the training to utilize the AED(s);
- iii. location of all AED(s);
- iv. serial number/identification number of all AED(s);
- v. schedules and timeframes for required maintenance;
- vi. name of agency issuing training credentials, name of individuals completing the credentialing training, date of recommended renewal of training;

vii. initial registration shall occur within 60 days of the effective date of this Subsection, and any change in or addition to required information shall be uploaded to the Bureau of EMS Information Management System within 30 days from the date of occurrence;

viii. each elementary, middle, and high school shall have an AED on its premises in an easily accessible location; and

ix. any elementary, middle, or high school that sponsors or hosts an interscholastic athletic event shall have an AED and a trained AED user who is also trained in first-aid CPR at the event.

F. Additional Requirements for Elementary, Middle, and High Schools, Effective until the Beginning of the 2024-2025 School Year

1. Each high school must have an AED on its premises, if funding is available, subject to appropriation.

G. Compliance and Enforcement

1. The BEMS shall inspect the premises in response to a complaint filed therewith that alleges a violation of R.S. 40:1137.3(D), R.S. 1137.3(E)(1)(a), or R.S. 40:1137.3(E)(2)(a) and specifies the name, address, and telephone number of the alleged violator. The BEMS may inspect facilities or premises at other times to ensure compliance therewith.

2. Violations of R.S. 40:1137.3(D), R.S. 40:1137.3(E)(1)(a), or R.S. 40:1137.3(E)(2)(a), may result in the assessment by BEMS of monetary penalties, on a per violation basis, as follows:

a. Voluntary Compliance Effort

i. The BEMS or its designee shall issue a written administrative warning without monetary penalty upon determining that an initial violation exists. The written notification of violation shall grant a 30-day grace period from the date the warning is received by the recipient.

b. Monetary Penalties

i. BEMS may impose monetary penalties in the amount of \$150 per violation per month upon determination that one or more violations continue to exist after the 30-day grace period has expired. A violation that exists for any portion of a month shall constitute an entire month;

ii. BEMS may impose monetary penalties in the amount of \$200 per violation per month upon determination that one or more violations continue to exist for more than six months following the expiration of the 30-day grace period. A violation that exists for any portion of a month shall constitute an entire month;

iii. If it determines that a violation has continued for more than six months following the expiration of the 30-day grace period, the BEMS or its designee may report said violation to the Louisiana attorney general's office or other governing authorities requesting issuance of further warning and/or the institution of judicial enforcement procedures; and

iv. The monetary civil penalties authorized by this Section shall be imposed by issuance to an alleged violator ("respondent") of a written notice of penalty imposition. Said notice shall include language advising the respondent of the right to an administrative hearing concerning same, which right shall expire unless the respondent files, in the

manner specified therein, a written request for an administrative hearing with BEMS within 20 calendar days of receipt of the notice. If such a written request is timely filed, then it shall be forwarded by BEMS to the Division of Administrative Law.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1137.3(F).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, Bureau of Emergency Medical Services, LR 38:2930 (November 2012), amended by the Department of Health, Office of Public Health, Bureau of Emergency Medical Services, LR 47:743 (June 2021), LR 50:

Family Impact Statement

The proposed Rule should not have any known or foreseeable impact on family formation, stability, and autonomy. In particular, the proposed Rule has no known or foreseeable impact on:

1. the stability of the family;
2. the authority and rights of persons regarding the education and supervision of their children;
3. the functioning of the family;
4. family earnings and family budget;
5. the behavior and personal responsibility of children;
6. the ability of the family or a local government to perform the function as contained in the proposed Rule.

Poverty Impact Statement

The proposed Rule should not have any known or foreseeable impact on any child, individual or family as defined by R.S. 49:973(B). In particular, there should be no known or foreseeable effect on:

1. the effect on household income, assets, and financial security;
2. the effect on early childhood development and preschool through postsecondary education development;
3. the effect on employment and workforce development;
4. the effect on taxes and tax credits;
5. the effect on child and dependent care, housing, health care, nutrition, transportation, and utilities assistance.

Small Business Analysis

The proposed Rule should have no adverse impact on small businesses as defined in the Small Business Protection Act.

Provider Impact Statement

The proposed Rule should not have any known or foreseeable impact on providers as defined by HCR 170 of the 2014 Regular Legislative Session. In particular, there should be no known or foreseeable effect on:

1. the effect on the staffing level requirements or qualifications required to provide the same level of service;
2. the total direct and indirect effect on the cost to the providers to provide the same level of service; or
3. 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, November 28, 2023 at COB, 4:30 pm, and should be addressed to Susan Bailey, Director, Bureau of EMS, 7273 Florida Blvd., Baton Rouge, LA 70806.

Public Hearing

Interested persons may submit a written request to conduct a public hearing either by U.S. mail to the Office of the Secretary ATTN: LDH Rulemaking Coordinator, P.O. 629, Baton Rouge, LA 70821; however, such request must be received no later than 4:30 p.m. on Friday, November 10, 2023. If the criteria set forth in R.S. 49:961(B)(1) are satisfied, LDH will conduct a public hearing at 9:00 a.m. on Tuesday, November 28, 2023 in Room 173 of the Bienville Building, which is located at 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 November 10, 2023. 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 LDH staff at the hearing.

Stephen R. Russo, JD
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Automated External Defibrillators

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

The costs to LDH associated with inspection and enforcement of Act 234 of the 2023 RS, which requires elementary and middle schools that participate in intercollegiate athletics and all postsecondary institutions to have an automated external defibrillator (AED) on premise, is approximately \$488,000 for salary and related benefits for four positions and a one time cost of approximately \$175,000 to upgrade the Bureau of EMS Information Management System. LDH was not provided funding for this purpose in FY 24.

In compliance with Act 234 of the 2023 RS, the LDH proposes to amend LAC 48:Chapter 61 regarding AEDs. Specifically, the rule updates definitions, updates requirements related to postsecondary education institutions, high schools, middle schools, and elementary schools to have AEDs on premise, and sets the compliance and enforcement framework for AEDs at schools.

The department indicates that a request for funding will be submitted in FY 25 budget request. Nevertheless, the department proposes to amend its rules in compliance with Act 234, with the caveat that system upgrades, AED inspections, and enforcement of AED compliance will only occur once funding is available for this purpose.

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

There may be an indeterminable increase in self generated revenue for LDH associated with the collection of penalties for schools that fail to comply with rules related to having AEDs on premises.

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

Elementary, middle, high, and postsecondary schools that do not have an AED on premises will incur costs associated with purchasing and maintaining AEDs. Schools were

appropriated \$1.5 M from the Jump Start Your Heart fund in FY 23 to cover this cost.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no estimated impact on competition and employment.

Doris Brown
Assistant Secretary
2310#036

Patrice Thomas
Deputy Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Health
Office of Public Health**

Doula Registry Board
(LAC 48:V.16701, 16901, 17101, 17103, 17105, 17301,
17302, 17303, 17304, 17305, 17306, 17501, 17502,
17503, 17504, 17701, 17702, 17703, 17704, and 17705)

Under the authority of R.S. 22:1059.1(B)(1)(b) and R.S. 22:1059.1(G), and in accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Department of Health, Doula Registry Board intends to adopt Subpart 57 (Doula Registry Board) of Part V (Preventive Health Services) of Title 48 (Public Health—General) of the Louisiana Administrative Code (LAC).

The proposed Subpart is necessary to implement the procedures and criteria by which the Doula Registry Board will review and approve doula registrations, in order to allow for health insurance reimbursement of doula services. More specifically, the proposed Subpart sets forth the criteria and procedures for registration approval and placement on the Doula Registry, the criteria and procedures for removal therefrom, and the criteria and procedures for renewing a registration.

Title 48

**PUBLIC HEALTH—GENERAL
Part V. Preventive Health Services
Subpart 57. Doula Registration**

Chapter 167. Scope and Purpose

§16701. Scope

A. This Part governs the registration of doulas by the Louisiana Doula Registry Board pursuant to R.S. 22:1059.1, to allow for health insurance reimbursement of doula services as provided therein.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:1059.1(B)(1)(b) and R.S. 22:1059.1(G).

HISTORICAL NOTE: Promulgated by the Department of Health, Louisiana Doula Registry Board, LR 50:

Chapter 169. Definitions

§16901. Definitions

A. Unless otherwise specifically provided herein or the context clearly requires otherwise, the following words and terms used in this Chapter are defined for the purposes thereof as follows.

Board—Louisiana Doula Registry Board.

Board Approved Doula Training Organization—an entity recognized and approved by the Board for training and/or certifying doulas

Contact Hour—60 minutes of participation in an organized learning experience under responsible

sponsorship, capable direction, and qualified instruction, as approved by the board.

Department—the Louisiana Department of Health

Doula—an individual who has been trained to provide physical, emotional, and educational support, but not medical or midwifery care, to pregnant and birthing women and their families before, during, and after childbirth.

Hospital—a facility or entity licensed by the Louisiana Department of Health, or equivalent licensing agency in another state or U.S. territory, as a hospital.

Louisiana Doula Registry—the board's listing or database of doulas that hold registered doula status in Louisiana, as conferred by the Board.

Professional Boundaries—the limits of the professional relationship that allow for a safe therapeutic connection between the doula and the client.

Registrant—an individual listed on the Louisiana Doula Registry.

Training—the receipt of education or instruction regarding, or the development through practice, of skills and knowledge related to a competency.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:1059.1(B)(1)(b) and R.S. 22:1059.1(G).

HISTORICAL NOTE: Promulgated by the Department of Health, Louisiana Doula Registry Board, LR 50:

Chapter 171. General Provisions

**§17101. Board Composition; Chairperson;
Subcommittees**

A. The board shall be comprised of members as specified in R.S. 22:1059.1. Board members shall serve without compensation for two years with the option for reappointment. The board may establish subcommittees and appoint persons to those subcommittees, including persons who are not board members, nor voting members, as it deems necessary and appropriate to accomplish its goals.

B. The board shall biennially elect from among its members a practicing doula as chairperson, and may also elect a chairperson-elect.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:1059.1(B)(1)(b) and R.S. 22:1059.1(G).

HISTORICAL NOTE: Promulgated by the Department of Health, Louisiana Doula Registry Board, LR 50:

§17103. Meetings of the Board

A. Unless otherwise provided by vote of the board or by order of the chairperson, regular business meetings shall be held at least quarterly at a place and time designated by the board.

B. Special meetings shall be called by the chairperson, or upon the request of four members of the board.

C. Any member of the public wishing to have a special topic added to the agenda for a board meeting shall notify the chairperson at least 21 days prior to the meeting. Items of an emergency nature may be considered at any meeting without prior notice.

D. Appropriate staff of the Department shall create minutes and keep a record of all meetings, and such records shall be retained as permanent records of the transactions of the board.

E. Meetings of the board shall be open to the public and the board shall comply with all applicable requirements of the Open Meetings Law (R.S. 42:11 et seq.).

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:1059.1(B)(1)(b) and R.S. 22:1059.1(G).

HISTORICAL NOTE: Promulgated by the Department of Health, Louisiana Doula Registry Board, LR 50:

§17105. Public Comment at Meetings of the Board

A. At every open meeting of the board or its committees, members of the public shall be afforded an opportunity to make public comment addressing any matters set by agenda for discussion at that meeting.

1. Concerns and public comments shall be limited to five minutes per individual unless the time limitation is waived by a majority of the board members present.

2. The board may require that anyone wishing to speak on a specific item must present the request prior to the convening of the meeting. In such case, cards shall be available to place the request for public comment, along with the requestor's name and for whom the requestor is appearing.

3. The chairperson may defer public comment on a specific agenda item until that item is brought up for discussion. However, the five-minute limitation for public comment shall remain in effect unless waived by a majority of the board members present.

4. The chairperson may recognize individuals at a public meeting at his or her discretion.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:1059.1(B)(1)(b) and R.S. 22:1059.1(G).

HISTORICAL NOTE: Promulgated by the Department of Health, Louisiana Doula Registry Board, LR 50:

Chapter 173. Registration Criteria and Application Procedure

§17301. Qualifications for Registration

A. To be eligible to be registered by the board as a doula, an individual must:

1. be at least 18 years of age;
2. possess either a high school diploma or high school equivalency documentation;
3. be a citizen of or lawfully authorized to be employed in the United States; and
4. meet one of the following qualification pathways:
 - a. demonstrate evidence of training as a doula by satisfying both of the following criteria:
 - i. submission of three letters of recommendation from clients to whom the individual has provided doula services within the previous five years. Such letters must provide specific details concerning the names, dates, and services provided; or
 - ii. submission of proof that the individual contracted with and provided doula services to at least three clients within the previous five years;
 - b. demonstrate receipt of a certificate of completion of training as a doula by a board approved doula training organization.

B. The burden of satisfying the board as to the qualifications and eligibility of the applicant for registration shall be upon the applicant. An applicant shall not be deemed to possess such qualifications unless the applicant demonstrates and evidences such qualifications to the satisfaction of the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:1059.1(B)(1)(b) and R.S. 22:1059.1(G).

HISTORICAL NOTE: Promulgated by the Department of Health, Louisiana Doula Registry Board, LR 50:

§17302. Application Procedure

A. Application for registration shall be made in a format or utilizing a form prescribed by the board. The application, instructions, and address or method of submitting an application are available on the board's webpage, located or linked to on the website of the Louisiana Department of Health. The board shall have the discretion to require use of an online application submission system.

B. An application for registration shall include:

1. proof, documented in a manner and form satisfactory to the board, that the applicant possesses the qualifications set forth in this Chapter;

2. a recent photograph of the applicant; and

3. a mailing address, email address, telephone number, and such other relevant information concerning the applicant as the board may require.

a. Using the instructions and method described on the board's webpage, applicants and registrants must notify the board within 14 calendar days of any change in mailing address, email address, or telephone number. Any such notification to the board made by email shall be considered insufficient unless the submitter receives a confirmation notification, by email or letter, from the board. The board shall have the discretion to require use of an online submission system for such changes.

b. The board may require that an applicant provide the board with his or her home address, home/personal cell phone number, and personal email address.

c. The board may honor a request from an applicant that his or her home address, home/personal cell phone number, and personal email address be confidential and not considered a public record, if such applicant also provides a valid alternative email address that shall be considered a public record.

C. Documents required to be submitted to the board under this Chapter need not be the original, however, the board in its sole discretion may require originals in any particular instance.

D. The board may refuse to consider any application which is not complete in every detail, including submission of every document or type of documentation required by this Chapter. The board may, in its sole discretion, require a more detailed or complete response to any request for information set forth in the application form or this Chapter as a condition of consideration of an application.

E. Notifications from the board to an applicant, including notifications of incompleteness or insufficiency of an application, including an application for renewal, may be sent by the board to the email or mailing address provided by the applicant.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:1059.1(B)(1)(b) and R.S. 22:1059.1(G).

HISTORICAL NOTE: Promulgated by the Department of Health, Louisiana Doula Registry Board, LR 50:

§17303. Effect of Application

A. The submission to the board of an application for registration, including an application for renewal, shall constitute and operate as an authorization by the applicant to any of the following to provide to the board relevant facts, information, and confirmation concerning same to the board:

1. each education institution at which the applicant has matriculated;
2. each client who provided a letter of recommendation concerning the applicant;
3. each client to whom the applicant provided doula services; and
4. each state or federal agency to which the applicant has applied for registration.

B. With respect to any such information or documentation, the submission of an application to the board shall equally constitute and operate as a consent by the applicant to the disclosure and release of such information and documentation and as a waiver by the applicant of any privilege or right of confidentiality which the applicant would otherwise possess with respect thereto.

C. The submission of an application for registration to the board shall constitute and operate as an authorization and consent by the applicant to the board to disclose and release any included information or documentation, and any information or documentation obtained by the board from other persons, firms, corporations, associations, or governmental entities, to any person, firm, corporation, association, or government entity having a lawful, legitimate, and reasonable need therefore, including, without limitation, the doula registration authority of any state.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:1059.1(B)(1)(b) and R.S. 22:1059.1(G).

HISTORICAL NOTE: Promulgated by the Department of Health, Louisiana Doula Registry Board, LR 50:

§17304. Registry Admittance, Termination, Renewal, Reinstatement

A. If the qualifications, requirements, documentation, and procedures set forth in this Chapter are met and provided to the satisfaction of the board, the board shall place the applicant on the Doula Registry. The board shall notify a successful applicant of such placement by email or U.S. mail, and such notice shall include the expiration date of the registration.

B. Every registration issued by the board shall expire on the last day of December of the fifth calendar year following the year in which such registration was issued, unless renewed pursuant to the requirements of this Chapter.

C. A registrant shall submit an application for renewal to the board no earlier than January 1 and no later than September 30 of the calendar year in which his or her registration expires. For good cause, the board may in its sole discretion accept a renewal application submitted before or after such dates. An application for renewal shall be made in a format or utilizing a form prescribed by the board. The renewal application, instructions, and address or method of submitting a renewal application are available on the board's webpage, located or linked to on the website of the Department of Health. The board shall have the discretion to require use of an online renewal submission system.

D. A timely-submitted application for renewal shall be approved by the board only if the applicant demonstrates and submits proof of completion of the continuing education requirements set forth in this Part.

E. Except as otherwise provided in §505 of this Part, any registration not renewed on or before its expiration date shall be deemed expired for non-renewal and become null, void, and of no effect. In such event, the board shall remove the registrant from the doula registry.

F. Reinstatement of Registration. A registration that has expired due to non-renewal may be reinstated within one year of such expiration by submitting an application for reinstatement in a format prescribed by the board. Reinstatement shall only occur if the applicant demonstrates satisfaction of the continuing education requirements prescribed in this Part. Reinstatement shall have effect only from the time it becomes effective and shall not be retroactive.

G. Nothing in this Part shall be construed to allow an individual to circumvent the Continuing Education requirements set forth in this Part by seeking or attempting to have a request or application for registration renewal treated as an application for initial registration.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:1059.1(B)(1)(b) and R.S. 22:1059.1(G).

HISTORICAL NOTE: Promulgated by the Department of Health, Louisiana Doula Registry Board, LR 50:

§17305. Denial of Registration or Registration Renewal; Appeals

A. The board shall send notification to an applicant of the board's final determination that the applicant shall be denied requested registration, renewal thereof, or reinstatement.

B. Any such denial shall state with particularity the basis for the denial, including the specific reason(s) for the denial, and shall include notice of right to an administrative hearing before the Division of Administrative Law concerning same, provided that the applicant submits an appeal request thereto within thirty calendar days of receipt of the denial.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:1059.1(B)(1)(b) and R.S. 22:1059.1(G).

HISTORICAL NOTE: Promulgated by the Department of Health, Louisiana Doula Registry Board, LR 50:

§17306. Removal from Registry; Appeals

A. The board may revoke the registration of any registered individual who:

1. violates or fails to comply with any applicable provision or requirement of this Chapter;
2. provides to the board, or to any board approved doula training organization, any false, misleading, forged, or materially erroneous documents, documentation, or information;
3. violates applicable Health Insurance Portability and Accountability Act (HIPAA) or other confidentiality requirements concerning a client;
4. performs procedures outside or beyond the scope of doula practice;
5. misappropriates anything of value belonging to a client; or
6. exceeds professional boundaries, including but not limited to sexual misconduct; for purposes of this Section.

B. Revocation shall occur through issuance and service of an order revoking registration. The order shall state with specificity the nature of the violation(s), including citations to the provision(s) of this Chapter that have been violated. In addition to any other method of service authorized by this Chapter, service on the registrant may be effected by electronic mail sent to the email address provided by the registrant to the board, which shall be deemed effective even if returned as undeliverable.

C. An order revoking registration shall include notice of right to an administrative hearing before the Division of

Administrative Law concerning same, provided that the registrant submits an appeal request thereto within thirty calendar days of receipt of the order. The order shall be stayed pending the decision of the Division of Administrative Law.

D. An individual whose registration is revoked may not subsequently seek registration for one year following the date the order revoking registration becomes final as a result of all appeals being exhausted or delays therefor having lapsed. After said one year period, the individual may apply for registration, but the individual shall have the burden of satisfying the board that the basis or cause for the revocation has been corrected, remedied, abated, or otherwise no longer exists.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:1059.1(B)(1)(b) and R.S. 22:1059.1(G).

HISTORICAL NOTE: Promulgated by the Department of Health, Louisiana Doula Registry Board, LR 50:

Chapter 175. Continuing Education Requirements

§17501. Requirements

A. To be eligible for renewal of registration on the doula registry, a registrant must demonstrate and provide proof of successful completion of not less than 20 contact hours of continuing education, or equivalents or alternatives as provided in this Section, obtained since such registration was last issued, reinstated, or renewed.

B. To be approved by the board, a proposed continuing education program or activity must have significant intellectual, practical, or clinical content, dealing primarily with matters related to maternal healthcare, including during pregnancy, intrapartum, and postpartum.

C. The following programs and activities are illustrative of the types of continuing education programs and activities which may be approved by the board if it determines that they meet the criteria set forth in Subsection B of this Section.

1. Attendance at or participation in meetings, conferences, workshops, seminars, or courses, including those sponsored or presented by the board;

2. Presenting at or conducting a course, seminar, or workshop, provided that such presentation is accompanied by thorough written materials or a comprehensive outline;

3. Teaching of a course in or directly related to doula practice at an accredited education institution, provided that such teaching is not performed in the ordinary course of the registered doula's usual and ordinary employment;

4. Publication, in a national, regional, or statewide scientific journal or other publication of a related profession, of an original written work, related to the maintenance or improvement of doula knowledge or skills, which shall count as 20 contact hours; and

5. Completion of academic courses related to specific knowledge and/or skills required for practicing as a birth worker at an accredited postsecondary, graduate, or postgraduate education institution. Contact hours shall be calculated from credit hours as follows:

a. quarter system hours: one credit hour equals 10 contact hours;

b. trimester system hours: one credit hour equals 12 contact hours; and

c. semester system hours: one credit hour equals 15 contact hours.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:1059.1(B)(1)(b) and R.S. 22:1059.1(G).

HISTORICAL NOTE: Promulgated by the Department of Health, Louisiana Doula Registry Board, LR 50:

§17502. Request for Continuing Education Program Approval

A. Any registrant or interested person may request that the board approve a continuing education program or activity. Such requestor must provide to the board all relevant information and documentation demonstrating that the program or activity meets the criteria for approval set forth in this Chapter. The board may approve a continuing education program or activity that has already occurred, but only if it strictly meets the criteria for approval set forth in this Chapter.

B. If the board denies approval of a continuing education program or activity for which approval has been sought, the denial shall state with particularity the basis for the denial, including the specific reason(s) for the denial, and shall include notice of right to an administrative hearing before the Division of Administrative Law concerning same, provided that the requestor submits an appeal request thereto within 30 calendar days of receipt of the denial.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:1059.1(B)(1)(b) and R.S. 22:1059.1(G).

HISTORICAL NOTE: Promulgated by the Department of Health, Louisiana Doula Registry Board, LR 50:

§17503. Documentation Procedure

A. Documentation and/or certification of satisfaction of the continuing professional education requirements set forth in this Chapter shall be made in a manner prescribed by the board's renewal application.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:1059.1(B)(1)(b) and R.S. 22:1059.1(G).

HISTORICAL NOTE: Promulgated by the Department of Health, Louisiana Doula Registry Board, LR 50:

§17504. Waiver of Requirements

A. The board may, in its discretion, waive all or part of the continuing education required by these rules in favor of a registered doula who makes written request for such waiver to the board and evidences to the satisfaction of the board a permanent physical disability, illness, financial hardship, or other similar extenuating circumstances precluding satisfaction of the continuing education requirements.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:1059.1(B)(1)(b) and R.S. 22:1059.1(G).

HISTORICAL NOTE: Promulgated by the Department of Health, Louisiana Doula Registry Board, LR 50:

Chapter 177. Board Approved Doula Training Organizations

§17701. Qualifications for Approval by the Board

A. An entity seeking approval from the board as a board approved doula training organization shall demonstrate all of the following:

1. that the entity has employees, board members, or consultants with a subject matter expertise in doula, birth, and/or prenatal care;

2. that the entity issues certificates of completion of training as a doula only to individuals who have received the training or instruction required by Subsection B of this Section, which training or instruction must be prepared and provided by individuals having subject matter expertise in doula, birth, and/or prenatal care; and

a. An entity seeking approval that allows third parties to provide training to individuals seeking certificates of completion of training as a doula by the entity shall affirm or attest that the entity verifies the syllabus or curriculum of such third party trainings and the subject matter expertise of the individuals preparing and providing the trainings.

3. that it agrees to verify to the board upon request whether it has issued a certificate of completion of training as a doula to a particular individual.

B. The curriculum for training doulas must include at least eight hours of instruction having significant intellectual, practical, or clinical content, dealing with matters related to maternal healthcare, including during pregnancy, intrapartum, and postpartum. The following topics are illustrative of what such instruction may include:

1. anatomy and physiology of labor, birth, maternal postpartum, neonatal transition, and breastfeeding;

2. labor coping strategies, comfort measures, and non-pharmacological techniques for pain management;

3. the reasons for, procedures of, and risks and benefits of common medical interventions, medications, and Cesarean birth;

4. emotional and psychosocial support of birthing persons and their support team;

5. birth doula scope of practice, standards of practice, and basic ethical principles;

6. the role of the birth doula with members of the birth team;

7. communication skills, including active listening, cross-cultural communication, and inter-professional communication;

8. self-advocacy and empowerment techniques;

9. breastfeeding support measures;

10. postpartum support measures for the mother and baby relationship;

11. perinatal mental health;

12. family adjustment and dynamics;

13. evidence-informed educational and informational strategies;

14. community resource referrals;

15. professional conduct, including relationship boundaries and maintaining confidentiality;

16. self-care;

17. cultural humility;

18. inter-professional collaboration;

19. HIPAA compliance;

20. trauma-informed care; and

21. diversity, equity, and inclusion.

C. The burden of satisfying the board as to the qualifications set forth in this Section shall be upon the entity seeking approval from the board as a board approved doula training organization. An applying entity shall not be deemed to possess such qualifications unless it demonstrates and evidences such qualifications to the satisfaction of the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:1059.1(B)(1)(b) and R.S. 22:1059.1(G).

HISTORICAL NOTE: Promulgated by the Department of Health, Louisiana Doula Registry Board, LR 50:

§17702. Application Procedure

A. An entity seeking approval as a board approved doula training organization shall submit an application in a format or utilizing a form prescribed by the board. The application,

instructions, and address or method of submitting an application are available on the board's webpage, located or linked to on the website of the Department of Health. The board shall have the discretion to require use of an online application submission system.

B. An application for registration shall include proof, documented in a manner and form satisfactory to the board, that the applying entity meets the qualifications for approval set forth in this Chapter.

C. The board may refuse to consider any application which is not complete in every detail, including submission of every document or type of documentation required by this Chapter. The board may, in its sole discretion, require a more detailed or complete response to any request for information set forth in the application form or this Chapter as a condition of consideration of an application.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:1059.1(B)(1)(b) and R.S. 22:1059.1(G).

HISTORICAL NOTE: Promulgated by the Department of Health, Louisiana Doula Registry Board, LR 50:

§17703. Approvals; Expiration

A. Approval of an entity as a board approved doula training organization shall expire five years from the date of issuance. An approved entity may apply to the board no earlier than six months prior to such expiration for re-approval for an additional five years. The procedures, requirements, and qualifications for re-approval shall be the same as those set forth in this Chapter for initial approval, but the board may in its discretion allow an applicant for re-approval to attest/certify, in whole or part, that the applicant's curriculum, oversight, staff qualifications, and procedures for certifying doulas have not materially changed since the last approval by the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:1059.1(B)(1)(b) and R.S. 22:1059.1(G).

HISTORICAL NOTE: Promulgated by the Department of Health, Louisiana Doula Registry Board, LR 50:

§17704. Denial of Approval; Appeals

A. The board shall send notification to an applicant of the board's final determination that the applicant shall be denied requested approval as a board approved doula training organization.

B. Any such denial shall state with particularity the basis for the denial, including the specific reason(s) for the denial, and shall include notice of right to an administrative hearing before the Louisiana Division of Administrative Law concerning same, provided that the applicant submits an appeal request thereto within 30 calendar days of receipt of the denial.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:1059.1(B)(1)(b) and R.S. 22:1059.1(G).

HISTORICAL NOTE: Promulgated by the Department of Health, Louisiana Doula Registry Board, LR 50:

§17705. Revocation of Approval; Appeals

A. The board may revoke approval as a board approved doula training organization if the organization:

1. violates or fails to continue to comply with any applicable provision or requirement of this Chapter; or

2. provides to the board any false, misleading, forged, or materially erroneous documents, documentation, or information.

B. Revocation shall occur through issuance and service of an order revoking approval as a board approved doula

training organization. The order shall state with specificity the nature of the violation(s), including citations to the provision(s) of this Chapter that have been violated. In addition to any other method of service authorized by this Chapter, service on the organization may be effected by electronic mail sent to the email address provided by the organization to the board, which shall be deemed effective even if returned as undeliverable.

C. An order revoking approval as a board approved doula training organization shall include notice of right to an administrative hearing before the Division of Administrative Law concerning same, provided that the registrant submits an appeal request thereto within 30 calendar days of receipt of the order. The order shall be stayed pending the decision of the Division of Administrative Law.

D. A board approved doula training organization whose approval is revoked may not subsequently seek approval for one year following the date the revocation order becomes final as a result of all appeals being exhausted or delays therefor having lapsed. After said one year period, the entity may apply for approval as a board approved doula training organization, but the entity shall have the burden of satisfying the board that the basis or cause for the revocation has been corrected, remedied, abated, or otherwise no longer exists.

E. Revocation of an entity's approval as a board approved doula training organization shall have no effect on any doula whose placement on the Doula Registry, or application therefor, was based upon having received a certificate of completion of training as a doula from such entity prior to the date that the revocation order became final.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:1059.1(B)(1)(b) and R.S. 22:1059.1(G).

HISTORICAL NOTE: Promulgated by the Department of Health, Louisiana Doula Registry Board, LR 50:

Family Impact Statement

The proposed Rule should not have any known or foreseeable impact on family formation, stability, and autonomy. In particular, the proposed Rule has no known or foreseeable impact on:

1. the stability of the family;
2. the authority and rights of persons regarding the education and supervision of their children;
3. the functioning of the family;
4. family earnings and family budget;
5. the behavior and personal responsibility of children;
6. the ability of the family or a local government to perform the function as contained in the proposed Rule.

Poverty Impact Statement

The proposed Rule should not have any known or foreseeable impact on any child, individual or family as defined by R.S. 49:973(B). In particular, there should be no known or foreseeable effect on:

1. the effect on household income, assets, and financial security;
2. the effect on early childhood development and preschool through postsecondary education development;
3. the effect on employment and workforce development;

4. the effect on taxes and tax credits;
5. the effect on child and dependent care, housing, health care, nutrition, transportation, and utilities assistance.

Small Business Analysis

In accordance with Sections 978.1 through 978.8 of the Small Business Protection Act of Title 49 of the Louisiana Revised Statutes, there is hereby submitted a regulatory flexibility analysis/small business analysis on the rule proposed for adoption, amendment or repeal.

The impact of the proposed Rule on small businesses as defined in the Small Business Protection Act has been considered. Louisiana Department of Health, Louisiana Doula Registry Board does not expect that adoption of the proposed amendments will have an adverse economic impact on small businesses.

Provider Impact Statement

The proposed Rule should not have any known or foreseeable impact on providers as defined by HCR 170 of the 2014 Regular Legislative Session. In particular, there should be no known or foreseeable effect on:

1. the effect on the staffing level requirements or qualifications required to provide the same level of service;
2. the total direct and indirect effect on the cost to the providers to provide the same level of service; or
3. 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, November 28, 2023 at COB, 4:30 pm, and should be addressed to Shane Bates, Legislative and Policy Lead, Bureau of Family Health, P.O. Box 3214, Bin #4, Baton Rouge, LA 70821.

Public Hearing

Interested persons may submit a written request to conduct a public hearing either by U.S. mail to the Office of the Secretary ATTN: LDH Rulemaking Coordinator, P.O. 629, Baton Rouge, LA 70821; however, such request must be received no later than 4:30 p.m. on Friday, November 10, 2023. If the criteria set forth in R.S. 49:961(B)(1) are satisfied, LDH will conduct a public hearing at 9:00 a.m. on Tuesday, November 28, 2023 in Room 173 of the Bienville Building, which is located at 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 November 10, 2023. 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 LDH staff at the hearing.

Stephen R. Russo, JD
Secretary

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

RULE TITLE: Doula Registry Board

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

Other than publication costs associated with the proposed rule, which are estimated to be \$825, it is not anticipated that state or local governmental units will incur any costs or savings as a result of this rule.

In compliance with Act 182 of the 2021 RS, the Office of Public Health proposes to adopt Subpart 57 of Part V (Preventive Health Services) of Title 48 (Public Health—General) of the Louisiana Administrative Code (LAC): Doula Registration. Specifically, the rule establishes the framework for the Louisiana Doula Registry Board within the Louisiana Department of Health for the purpose of reviewing and approving doula registration for doulas seeking health insurance reimbursement.

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

There is no anticipated effect on revenue collections of state or local governmental units.

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

There are no anticipated costs or economic benefits to directly affected persons, small businesses, or non-governmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

Registered doulas may experience an increase in patients, as the ability for doula services to be reimbursed by insurance would expand access to their services. Conversely, this may result in a decrease in maternity patients for doulas not participating in the registry.

Doris Brown
Assistant Secretary
2310#037

Patrice Thomas
Deputy Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Insurance
Office of the Commissioner**

Regulation 126—Louisiana Fortify Homes Program
(LAC 37:XIII.Chapter 182)

The Department of Insurance, pursuant to the authority of the 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 amend Regulation 126 to provide clarification with respect to the administration of the Louisiana Fortify Homes Program (LFHP) in accordance with Act No. 554 of the 2022 Regular Session.

Title 37

INSURANCE

Part XIII. Regulations

**Chapter 182. Regulation Number 126—Louisiana
Fortify Homes Program**

§18201. Purpose

A. ...

B. The purpose of the amendment to Regulation 126 is to provide additional clarification with respect to the

administration of the LFHP in accordance with Act No. 554 of the 2022 Regular Session.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11 and R.S. 22:1483.1.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 49:698 (April 2023), amended LR 50:

§18202. Definitions

A. - A.4. ...

5. *Louisiana Citizens* (when capitalized)—the Louisiana Citizens Property Insurance Corporation and includes the residual market insurance programs known as the “Coastal Plan” and the “FAIR Plan.”

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11 and R.S. 22:1483.1.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 49:698 (April 2023), amended LR 50:

**§18203. Contractor Eligibility Requirements and
Conflicts of Interest**

A. Contractor Eligibility Requirements. To be eligible to work as a Louisiana Fortify Homes Program contractor (LFHP-approved contractor), the contractor must meet all of the following program requirements:

1. - 9. ...

10. agree to follow the LFHP procedures and rules established by the Commissioner of Insurance.

B. - B.3. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11 and R.S. 22:1483.1.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 49:698 (April 2023), amended LR.

**§18204. Evaluator Eligibility Requirements and
Conflicts of Interest**

A. Evaluator Eligibility Requirements. To be eligible to work on the LFHP, an evaluator must meet all of the following program requirements:

1. submit and maintain a copy of all current program certificates with the LFHP;

A.2. - B.4. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11 and R.S. 22:1483.1.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 49:698 (April 2023), amended LR 50:

§18205. Louisiana Fortify Homes Program Grants

A. Grant Eligibility. To be eligible for a LFHP grant, an applicant must meet the following requirements.

1. The home must be a residence with a homestead exemption that is not a condominium or mobile home.

A.2. - B.3. ...

4. The homeowner must access the LFHP online application portal and obtain bids from three LFHP-approved contractors of their choice to improve the home to meet the IBHS fortified roof standard. If an LFHP-approved contractor is not available in the area where the home is located, the minimum number of bids required for the application will be reduced to reflect the number of contractors that are available in the area. A list of eligible contractors can be found at www.lti.la.gov/fortifyhomes. The LFHP may remove a contractor from the list of eligible contractors at any time upon a finding that the contractor

failed to meet any of the program requirements listed in §18203 of this Regulation.

C. ...

D. Maximum Grant Award. The amount of a grant award shall equal the total cost to retrofit to the IBHS fortified roof standard not to exceed \$10,000. The Commissioner of Insurance may periodically update the amount of the grant award.

E. - F.6. ...

G. The Commissioner of Insurance may establish additional procedures as necessary to allocate grant funds to Louisiana Citizens policyholders.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11 and R.S. 22:1483.1.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 49:698 (April 2023), amended LR 50:

§18207. Effective Date

A. Regulation 126, as amended, shall be effective upon final publication in the Louisiana Register.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11 and R.S. 22:1483.1.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 50:

Family Impact Statement

1. Describe the Effect of the Proposed Regulation on the Stability of the Family. The proposed amended 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 amended regulation should have no impact upon the rights and authority of parents regarding the education and supervision of their children.

3. Describe the Effect of the Proposed Regulation on the Functioning of the Family. The proposed amended 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 amended 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 amended 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 amended 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 amended 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 amended 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 amended regulation should have no effect on employment and workforce development.

4. Describe the Effect on Taxes and Tax Credits. The proposed amended 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 amended 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 amended 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 amended regulation should have no measurable impact upon small businesses.

3. A Statement of the Probable Effect on Impacted Small Businesses. The proposed amended 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 amended 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 amended 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 amended regulation will have no effect.

3. The Overall Effect on the Ability of the Provider to Provide the Same Level of Service. The proposed amended 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, or electronically at regulations@ldi.la.gov. Comments will be accepted through the close of business, 4:30 p.m., November 10, 2023.

James J. Donelon
Commissioner

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Regulation 126
Louisiana Fortify Homes Program**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)
The proposed rule is not anticipated to result in implementation costs or savings to the state or local governmental units. The proposed rule is being amended to provide clarification to the administration of the Louisiana Fortified Home Program by updating website addresses containing program information and procedures as well as defining LA Citizens Property Insurance Corporation. Also, the proposed rule states the maximum award is equal to the lesser of the retrofit cost or \$10,000.
- 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 units.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS, SMALL BUSINESSES, OR NONGOVERNMENTAL GROUPS (Summary)
The proposed amended rule will provide clarification to the administration of the Louisiana Fortified Home Program to homeowners, contractors, and evaluators that participate in the program.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
The proposed rule outlines contractor eligibility requirements, evaluator eligibility requirements and outlines conflicts of interest. It is unknown whether these changes will impact contractor or evaluator participation in the Louisiana Fortified Home Program.

Lance Herrin
Deputy Commissioner
2310#042

Deborah Vivien
Chief Economist
Legislative Fiscal Office

**NOTICE OF INTENT
Department of Natural Resources
Office of Conservation**

Termination of Units (LAC 43:XIX.3105)

In accordance with the provisions of the Administrative Procedure Act (R.S. 49:950, et seq.) and Title 30 of the Revised Statutes of 1950 (R.S. 30:4 et seq.), the Department of Natural Resources, Office of Conservation hereby gives notice of its intent to amend LAC 43:XIX and Subpart 13 (Statewide Order No. 29-L-3) Chapter 31 (Termination of Units) to codify policy established by memorandum. Specifically, the additions clarify when an operator of record should apply for a hearing if production is reestablished in a

terminated unit, establishment of new units overlapping terminated units, and termination of units subsequent to dissolution.

Title 43

NATURAL RESOURCES

Part XIX. Office of Conservation—General Operations

Subpart 13. Statewide Order No. 29-L-3

Chapter 31. Termination of Units

§3105. Order

A. - A.4. ...

a. Any well which was not officially plugged and abandoned on the effective date of unit termination which is sidetracked around junk to the same bottomhole location and brought back on production shall require the operator of record to be subject to the requirements of §3105.A.4 of this Part.

b. Any well which was not officially plugged and abandoned on the effective date of unit termination which is sidetracked to a different bottomhole location shall be considered a new well and the operator of record shall not be subject to the requirements of §3105.A.4 of this Part.

c. The re-entry of a well which was officially plugged and abandoned on the effective date of unit termination shall be considered a new well and the operator of record shall not be subject to the requirements of §3105.A.4 of this Part.

B. - E. ...

F. Establishment of Unit(s) Overlapping Terminated Units

1. An application for a public hearing to create a drilled or undrilled unit(s) overlapping a terminated unit(s) for what the applicant considers to be the same or a different pool or for a multiple pool zone which overlies and includes lands within a previously terminated unit(s), shall be allowed.

2. The vertical extent of any zonal, multi-pool defined unit interval shall be based upon industry and Office of Conservation accepted economic, efficient and safe operation reasons and such reasons shall be stated by the applicant at the public hearing to create such unit(s).

G. Any party desiring to terminate a unit previously dissolved by order of the commissioner shall apply for a public hearing in accordance with rules of procedure within Chapter 39 of this Part (30-day legal notice) to accomplish same.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4, et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 15:741(September 1989), amended LR 19:776 (June 1993), repromulgated LR 19:1030 (August 1993), amended LR 21:1084 (October 1995), LR 30:255 (February 2004), repromulgated LR 30:437 (March 2004), amended LR 50:

Family Impact Statement

The proposed Rule is not anticipated to have an impact on family formation, stability, and autonomy as described in R.S. 49:972.

Poverty Impact Statement

The proposed Rule is not anticipated to have an impact on poverty as defined by R.S. 49:973.

Small Business Analysis

The proposed Rule is not anticipated to have an adverse impact on small businesses as described in R.S. 49:965.6; therefore, a Small Business Economic Impact Statement has not been prepared.

Provider Impact Statement

The proposed Rule is not anticipated to have an impact on providers of services funded by the state as described in HCR 170 of the 2014 Regular Legislative Session.

Public Comments

All interested persons are invited to submit written comments on the proposed regulation. Persons commenting should reference "Termination of Units." Such comments must be received no later than Tuesday, November 21, 2023, at 4:30 p.m., and should be sent to F. Jonathan Rice, Office of Conservation, Executive Division, P. O. Box 94275, Baton Rouge, LA 70804-9275; hand delivered to 617 North Third Street, 9th Floor, Baton Rouge, LA 70802; by email to jonathan.rice@la.gov; or by fax to (225) 342-2584.

Public Hearing

If requested, a public hearing will be held on Tuesday, November 28, 2023 at 9:00 a.m. in the LaSalle Building, LaBelle Hearing Room, 617 N. Third Street, Baton Rouge, LA 70802. If accommodations are required under the Americans With Disabilities Act, please advise the Office of Conservation, Engineering Division at P.O. Box 94275, Baton Rouge, LA 70804-9275 in writing within ten (10) working days of the hearing date.

Monique M. Edwards
Commissioner

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Termination of Units

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)
There is no anticipated direct material effect on state or local governmental expenditures as a result of the proposed rule change.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
The proposed rule change will have no effect on revenue collections of state or local government units.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS, SMALL BUSINESSES, OR NONGOVERNMENTAL GROUPS (Summary)
There are no anticipated cost increases associated with the proposed amendment, nor any economic benefits of note.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
There is no anticipated effect on competition and employment.

Monique M. Edwards
Commissioner
2310#007

Patrice Thomas
Deputy Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

Department of Revenue Policy Services Division

Unrelated Infant Tax Credit
(LAC 61:I.1931)

Under the authority of R.S. 47:297.23 and 1511 and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Revenue, Policy Services Division gives notice that rulemaking procedures have been initiated to adopt LAC 61:I.1931 relative to the adoption of unrelated infant tax credit.

Revised Statute 47:297.23 authorizes a refundable tax credit for the adoption of certain children who are unrelated to the taxpayer and less than two years old at the time of the adoption placement. The primary purpose of this proposed Rule is to implement Act 452 of the 2023 Regular Session of the Louisiana Legislature.

This Rule is written in plain language with a readability score of 10.2 on the Coleman-Liau Readability Index.

Title 61

REVENUE AND TAXATION

Part I. Taxes Collected and Administered by the Secretary of Revenue

Chapter 19. Miscellaneous Tax Exemptions, Credits and Deductions

§1931. Credit for Adoption of Unrelated Infant

A. General

1. For tax periods beginning on or after January 1, 2023, and prior to January 1, 2029, Revised Statute 47:297.23 authorizes a refundable individual income tax credit for the adoption of certain unrelated children equal to \$5,000, per child.

2. The credit shall be allowed against the income tax liability for the taxable period in which the adoption is finalized.

B. Definition

Unrelated—a taxpayer is unrelated if he or she is not the child's parent, stepparent, grandparent, brother, sister, uncle, or aunt, whether of the whole or half blood or by adoption.

C. Claiming the Tax Credit

1. The taxpayer claiming the credit shall be listed as an adoptive parent on the adoption order or decree.

2. The credit is equal to \$5,000 per child.

3. In the case of two adoptive parents who do not file jointly as a married couple, the credit shall be claimed by the taxpayer claiming the child as a dependent on his or her federal and Louisiana individual income tax returns, unless provided for differently by the adoption order or decree.

4. The following documentation shall be attached to and filed with the individual income tax return on which the credit is claimed:

- a. a copy of the adoption order or decree, and

b. a letter from the private agency as defined in Louisiana Children's Code Article 1169(1), or attorney who facilitated the adoption stating when the infant was placed with the adoptive parents.

5. Failure to provide the documentation required in Paragraph 4 of this Subsection shall result in disallowance of the credit.

D. Other Tax Benefits Disallowed. A taxpayer claiming an adoption tax credit shall not receive a deduction pursuant to R.S. 47:297.21 for the same child.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:297.23 and 1511.

HISTORICAL NOTE: Promulgated by the Department of Revenue, Tax Policy and Planning Division, LR 50:

Family Impact Statement

The Rule should not have any known or foreseeable impact on any family as defined by R.S. 49:972(D) or on family formation, stability and autonomy. The implementation of this proposed Rule has no other foreseeable effect on:

1. The stability of the family.
2. The authority and rights of parents regarding the education and supervision of their children.
3. The functioning of the family.
4. Family earnings and family budget.
5. The behavior and personal responsibility of children.
6. The ability of the family or a local government to perform this function.

Poverty Statement

This proposed regulation will have no impact on poverty as described in R.S. 49:973.

Small Business Analysis

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

Provider Impact Statement

The proposed amendment will have no known or foreseeable effect on:

1. The staffing levels requirements or qualifications required to provide the same level of service.
2. The total direct and indirect effect on the cost to the provider to provide the same level of service.
3. The overall effect on the ability of the provider to provide the same level of service.

Public Comments

Any interested person may submit written data, views, arguments or comments regarding these proposed amendments to Christina Junker, Attorney, Policy Services Division, Office of Legal Affairs by mail to P.O. Box 44098, Baton Rouge, LA 70804-4098. All comments must be received no later than 4 p.m., Tuesday, November 28, 2023.

Public Hearing

A public hearing will be held on Wednesday, November 29, 2023, at 10 a.m. AM in the River Room, on the seventh

floor of the LaSalle Building, 617 North Third Street, Baton Rouge, LA 70802. Should individuals with a disability need an accommodation in order to participate, contact Christina Junker at the address given above in the Public Comments section or at (225) 219-7823.

Kevin J. Richard, CPA
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Unrelated Infant Tax Credit

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

The Louisiana Department of Revenue ("LDR") will incur one-time costs of \$53,000 in FY 24 for computer system development and modification, tax form redesign, and testing.

The purpose of the proposed rule is to implement the provisions of Act 452 of the 2023 Regular Session of the Louisiana Legislature. Act 452 provides a refundable individual income tax credit for the adoption of certain children who are unrelated to the taxpayer and less than three years old at the time of the adoption placement. Individuals who meet the requirements are allowed a refundable credit of \$5,000 per child. The credit is effective for tax years beginning on or after January 1, 2023, through the 2028 tax year. The credit is applicable to adoptions finalized on or after January 1, 2023, and before January 1, 2029, and may not be taken in conjunction with the existing individual income tax deduction for a private adoption of the same child authorized in R.S. 47:297.21.

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

The proposed rule is estimated to decrease to the State General Fund by \$1.3 M annually beginning in FY 24 and ending primarily in FY 29. Assuming an effective personal income tax rate of 4.25%, the existing adoption deduction reduced liability by \$213, whereas the refundable credit reduces liability by \$5,000. Therefore, the proposed rule is anticipated to result in a net state general fund reduction of \$4,788 per eligible adoption. Federal data provides an assumption of 280 eligible adoptions to reach the \$1.3M annual revenue reduction estimate. Since the Act does not limit the credit to adoptions in Louisiana, the Sports Facility Assistance Fund, which contains income tax from non-resident professional athletes, may see an indeterminable decrease if the credit is claimed by athletes who adopt infants.

There is no anticipated direct material effect on local governmental revenues as a result of this rule.

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

Individuals seeking the credit will need to adopt an unrelated child that is less than three years of age. The individuals may incur expenses associated with the adoption. Additional costs for submission of the required documentation of this credit are expected to be minimal.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

No material impact on competition or employment is anticipated due to this proposal.

Kevin J. Richard
Secretary
2310#031

Patrice Thomas
Deputy Fiscal Officer
Legislative Fiscal Officer

NOTICE OF INTENT

Department of Transportation and Development Office of Operations

Weights and Standards
(LAC 73:I.Chapters 1-30 and 73:III.Chapter 3)

Notice is hereby given in accordance with the provisions of the Administrative Procedure Act, R.S. 49:961 et seq., and through the authority granted in R.S. 32:380 through 388.1, R.S. 32:390, and R.S. 47:718, that the Department of Transportation and Development, Office of Operations, Weights and Standards Section, intends to amend Part I. Weights and Standards and Part III. Weights and Measures of the *Louisiana Administrative Code* Title 73 Weights, Measures and Standards.

23 C.F.R. § 657.5 requires the state to enforce vehicle size and weight laws. Pursuant to 23 C.F.R. § 657.19, if such laws are not enforced, the state risks losing ten percent of its federal transportation funding apportionment. This responsibility for enforcement at stationary scales was transferred to DOTD on July 1, 2022. This amended Rule will provide updated procedures for enforcement of vehicle size and weight laws, and provides for compliance with federal laws regarding vehicle size and weight laws.

Title 73

WEIGHTS, MEASURES AND STANDARDS

Part I. Weights and Standards

Chapter 1. Policy and Procedures for Weight Enforcement Field Personnel

§101. Field Procedures for Enforcing Weight and Size Limitations [Formerly §103]

A. Procedures for Enforcing the Weight Law

1. Shifting the Load. Loads may be required to be shifted by weight and standards stationary scale police officers after weighing and before proceeding. If the initial weighing shows that the maximum allowable axle weights are exceeded, drivers will be allowed to shift the loads carried by their vehicles after being weighed in order to qualify for a second weighing and a lesser fine amount, so long as no part of the load is removed.

2. All loads that are not indivisible, perishable, or dangerous will be ticketed as required and may be permitted to proceed without reducing the load.

3. All indivisible loads and all perishable products will be ticketed in accordance with La. R.S. 32:388, et seq., and permitted to proceed to a suitable place to reduce the load.

a. Perishable Products. Include the following, but may not be limited to these: All agricultural products; hot mix asphalt; concrete; all seafood; products requiring refrigeration or those transported in insulated vehicles; dairy products or poultry and associated products, meat, pork, livestock, live animals; and all other loads that would lose their value or be damaged to such a degree that they would not be suitable for their intended use in commerce if delayed in transit.

b. Indivisible Loads. Indivisible loads are those that are divisible but became indivisible once loaded due to the

nature of loading or equipment required for unloading. Indivisible loads include the following, but are not limited to: All forest products; flammable, dangerous or toxic liquids, solids and gases such as gasoline, naphtha, kerosene, acids, liquefied petroleum gas, containerized cargo; pipe; prestressed or steel girders or large structural components or fabricated or unfabricated materials of indivisible nature that would require specialized equipment to unload or shift; or any load that would create a traffic hazard or danger to either the motoring public or the surrounding area if unloaded adjacent to the highway.

4. Checking Tandem, Tridem, Quadrum and Quint Axles. The following criteria shall be used to determine uniform distribution.

a. Tandem Axles. Each individual axle of a tandem axle shall be considered compliant if the load on both axles does not exceed 34,000 pounds and neither individual axle carries more than 20,000 pounds on the interstate. On non-interstate highways a tandem axle may not exceed 37,000 pounds, and neither individual axle may carry more than 21,500 pounds. On permit loads neither axle shall carry more than 60 percent nor less than 40 percent of the load shown on the approved permit.

b. Tridum Axles. Each individual axle of a tridum axle shall be considered acceptable if the load on all three axles does not exceed 42,000 pounds and none of the axles carried more than 16,000 pounds on interstate highways. On non-interstate highways a tridum axle may not exceed 45,000 pounds, and neither individual axle may carry more than 17,000 pounds. On permit loads no axle shall carry more than 40 percent or less than 25 percent of the load shown on the approved permit.

c. Quadrum Axles. Each individual axle of a quadrum axle shall be considered acceptable if the load on all four axles does not exceed 50,000 pounds and none of the axles carries more than 14,500 pounds on interstate highways. On non-interstate highways a quadrum axle may not exceed 53,000 pounds, and neither individual axle may carry more than 30 percent or less than 20 percent of the load shown on the approved permit.

d. Quint Axles. Each individual axle of a five axle group shall be considered acceptable if the load on all five axles does not exceed 58,000 pounds and none of the axles carries more than 11,000 pounds on interstate highways. On non-interstate highways a Five Axle Group may not exceed 61,000 pounds, and neither individual axle may carry more than 30 percent or less than 20 percent of the load shown on the approved permit.

e. When these regulations are violated, a violation ticket shall be issued and a penalty of \$100 assessed, unless there are other violations, in which case the violation resulting in the highest fine will be used. The fines shall not be cumulative.

5. Whenever an officer stops a vehicle that is not entering into or completing a turn and an variable load suspension axles axle equipped with an air bag or hydraulic system is in the raised position and the axle load is within legal limits for the number of axles including the variable load suspension axles axle, the vehicle will be ticketed for improper distribution of the load and assessed a penalty of \$100. In the event the axle load exceeds the legal limitations

for the configuration, including the variable load suspension axles axle, the vehicle will be ticketed for the excess weight over and above legal limits.

6. Posted Bridges. Violation reports shall be issued only after the offense is committed. Whomever owns or operates any vehicle or combination vehicles in violation of any rule, regulation, directive, or requirement of the secretary adopted under R.S. 32:386 or in violation of R.S. 32:386 shall be assessed a penalty on such weight which exceeds the maximum permissible gross weight as defined by R.S. 32:386. All overweight vehicles shall be directed to turn back when they are seen approaching a bridge posted with a regulatory weight limit.

7.a. All vehicles are required to stop at a DOTD stationary weight enforcement scale except the following:

- i. automobiles,
- ii. private passenger pickup trucks,
- iii. private passenger vans,
- iv. recreational vehicles,
- v. buses;
- vi. trucks which belong to law enforcement agencies and are not normally used for load-carrying purposes, fire trucks, and ambulances;
- vii. utility vehicles convoying to or from emergency services restoration due to a natural disaster
- viii. tow trucks, unless the tow truck has a gross vehicle weight rating in excess of twenty-six thousand pounds, or is hauling or carrying a vehicle not exempt from the provisions of this Section.

b. Each vehicle that is required to stop at a DOTD stationary weight enforcement scale location and that fails to stop shall be assessed the following penalty:

- i. Vehicles with a gross vehicle weight rating of less than twenty-six thousand pounds shall be fined one hundred dollars for failure to stop at the department stationary weight scales. This fine shall be in addition to any other fine which may be assessed for other violations.
- ii. Vehicles with a gross vehicle weight rating of twenty-six thousand pounds or more shall be fined five hundred dollars for failure to stop at the department stationary weight scales. This fine shall be in addition to any other fines which may be assessed for other violations.

c. Any vehicle which inadvertently bypasses the department stationary weight scales and returns to the scales voluntarily without the assistance of law enforcement shall not be assessed any penalty for bypassing the scales.

8. National Guard and Department of Defense Convoys. These may proceed without stopping at the stationary scales for weighing purposes, provided overweight and oversize permits are obtained in advance for all vehicles requiring permits and that the lead vehicle stops at the weighing station and advises the supervisor in charge of the permit vehicles in the convoy.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:2 and 32:386.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways, LR 5:28 (February 1979), amended by the Office of Weights, Measures and Standards, LR 24:1517 (August 1998), amended by the Office of Operations, LR 50:

§103. Registration and Licensing Requirements for Vehicles Operating in Louisiana [Formerly §105]

A. Registration Requirements for Intrastate Haulers. A vehicle is operating intrastate when it is hauling any load which both originates and terminates in Louisiana. The vehicle must be either full plated for Louisiana or apportioned for Louisiana, or must have a 48-hour temporary permit. If the vehicle is owned and operated in Louisiana, it must be licensed and titled in Louisiana.

B. Reciprocity for Interstate Haulers. These vehicles, if lawfully owned and registered by a resident of one of the states with which Louisiana has a reciprocal agreement, are not required to have Louisiana plates to operate interstate in Louisiana (to pass through or to only originate or only terminate loads in Louisiana). These foreign plated trucks are allowed the Louisiana weight limits, provided the truck is registered for the maximum allowed gross weight for the single truck or combination vehicles. If the home state weight limits are greater than the Louisiana weight limits, then the vehicle will have to abide by the Louisiana weight limits.

C. Temporary 48-Hour Permits. A truck not licensed to operate in Louisiana may purchase a \$50 temporary 48-hour permit rather than a full plate or apportion with Louisiana. A temporary permit allows the vehicle to operate in Louisiana for a period of 48 continuous hours. Permit shall be purchased prior to entering Louisiana. Under no condition will a vehicle be allowed to operate within the state (intrastate) without either having Louisiana plates, or a temporary 48-hour permit, or being apportioned for Louisiana. Temporary 48-hour permits apply to these types of vehicles:

1. If a vehicle or combination vehicle from an FRP member jurisdiction and the motor vehicle has three (3) or more axles;

2. If any of the vehicles alone or in combination weighs more than 26,000 pounds or the power unit is registered for more than 26,000 pounds; and

3. If a power unit having two axles and a gross weight or registered weight in excess of 26,000 pounds or is registered for more than 26,000 pounds.

D. Full Reciprocity Plan. Any single motor vehicle having three or more axles, regardless of weight, or any vehicle or combination vehicle weighing 26,000 pounds or more may be licensed under the Federal Registration Plan, if the home state is a member. A vehicle from a member state may operate interstate or intrastate in Louisiana if the cab card shows that the vehicle is apportioned for Louisiana. If the vehicle is not apportioned for Louisiana, the driver must obtain a temporary 48-hour permit to operate either interstate or intrastate. At all times this card must accompany the vehicle for which it was issued. If this card is altered or defaced or used in any other vehicle except the one described thereon, it shall be considered null and void and the Louisiana registration license requirements shall apply. An apportioned license plate must also be displayed on the front of the vehicle, and the cab card must show the weights and the states for which the vehicle is apportioned.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:2 et seq.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways, LR 5:29 (February 1979), amended by the Office of Operations, LR 50:

§105. Procedures for Enforcing Vehicle Registration and Licensing Laws [Formerly §107]

A. Louisiana Vehicles Which Are Improperly Licensed or Unlawfully Registered. This includes vehicles operating with the wrong class of license, pursuant to La. R.S. 47:462; a vehicle whose serial number does not match the serial number on the registration certificate; or a vehicle which exceeds its licensed weight, but does not exceed the legal weight for that type of vehicle.

1. Vehicles with registration issued by the state of Louisiana are allowed a 10 percent tolerance on licensed weight. If the vehicle is not more than 10 percent over its licensed weight and does not exceed the legal maximum allowable weight for that type of vehicle, no violation has occurred.

2. For those vehicles which exceed the 10 percent tolerance on licensed weight, the officer shall cite R.S. 47:516, and the penalty assessed will be the greater of the violations stated in R.S. 47:516.

3. When the driver appears at the Vehicle Registration Bureau to purchase the proper plates, he will be charged an additional 25 percent of the cost of the new plates as a penalty.

4. If a vehicle in this situation also exceeds the legal weight limitations, the officer shall issue another violation ticket citing R.S. 32:386 and fine the vehicle for the weight in excess of the legal weight, according to the overweight penalty chart referenced in this document.

B. Louisiana Vehicles with an Expired License and Registration or No License and Registration

1. In these situations the officer shall write a "no fine" violation report citing R.S. 47:516, if the plate expired within the last 30 days. If the plate has been expired for over 30 days, the officer shall cite R.S. 47:516, and a fine of \$100 will be assessed.

2. If a vehicle in this situation also exceeds the legal weight limitations, the officer shall issue another violation ticket citing R.S. 32:386 and fine the vehicle for the weight in excess of the legal weight, according to the overweight penalty chart.

C. Out-of-State Vehicles with an Expired License and Registration or No License and Registration

1. Out-of-State Vehicles with apportion plates not licensed in Louisiana shall not operate in Louisiana, neither interstate nor intrastate, without purchasing a temporary 48-hour permit prior to entering Louisiana. This does not apply to out-of-state vehicles from states with reciprocity agreements with Louisiana, or that are members of the FRP.

2. If a temporary 48-hour permit is not purchased prior to entering Louisiana, the driver will be required to purchase a temporary 48-hour permit, and a penalty of \$200 will be assessed, in addition to the cost of the permit.

D. Out-of-State Vehicles Which Are Improperly Licensed

1. If a vehicle domiciled outside Louisiana has a current license but the actual weight of the vehicle exceeds

the weight for which it is licensed, the officer shall issue a violation report citing R.S. 32:388, and a penalty of \$100 will be assessed. This applies even if the actual weight does not exceed the legal weight for that type vehicle

2. If the vehicle exceeds both the licensed weight and the Louisiana legal weight for that type of vehicle, a penalty of \$100 will be assessed, or a penalty in accordance with the overweight penalty chart contained in this document, whichever penalty is greater. If the officer assesses a penalty in accordance with the overweight penalty chart, the officer shall cite R.S. 32:386.

E. Vehicles Which Require Temporary 48-Hour Permits

1. If a vehicle is required to have a temporary permit and does not possess one, the officer shall issue a violation report citing R.S. 47:511.1, and may require the operator to purchase a temporary permit. A penalty of \$200 shall be assessed in addition to the cost of purchasing a temporary permit.

2. The cost of a temporary 48-hour permit is \$50. It shall be valid for 48 continuous hours.

3. If a vehicle is stopped and found to exceed the time limit of a temporary permit, a penalty of \$200 shall be assessed and the driver shall be required to purchase another permit.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:2 et seq.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways, LR 5:30 (February 1979), amended by the Office of Operations, LR 50:

§107. Procedures for Enforcing Fuel Tax Laws [Formerly §109]

A. Authority of Weights and Standards Stationary Scale Police Force

1. Weights and Standards Stationary Scales Police Force shall assist the Department of Revenue and Taxation in enforcing fuel tax laws. The Department of Revenue and Taxation is the final authority on fuel tax laws.

2. Fuel Use. Weights and Standards Stationary Scale Police Force officers have the authority to enforce fuel tax laws only when the vehicle is not fully licensed in Louisiana and is domiciled outside Louisiana.

a. The state of domicile shall be determined by the name and address on the cab doors.

b. License plates from another state which are apportioned for Louisiana have not been fully licensed in Louisiana. Vehicles with these plates may be checked if the vehicle is domiciled outside Louisiana.

3. Bulk Transports. Weights and Standards Stationary Police Force officers have the authority to enforce fuel tax laws on all bulk transports of taxable fuels.

B. Motor Vehicles Using Gasoline for Fuel. Vehicles which are not fully licensed in Louisiana and are domiciled outside Louisiana shall be checked as they leave Louisiana to insure that the driver has purchased enough gasoline in Louisiana to cover the miles traveled in Louisiana.

C. Motor Vehicles Using Special Fuels

1. Special fuels are all fuels used by motor vehicles except gasoline. Special fuels include distillate fuels (e.g., diesel or kerosene) and liquefied petroleum gases (e.g., butane or propane).

2. Vehicles using special fuels are required to have a working speedometer, odometer, or hub meter. Compare the

speedometer, odometer, or hub meter reading with the reading on the special fuels invoice to determine if the mileage indicator is working properly.

3. Vehicles using special fuels are also required to have the name and address of the company on both cab doors in letters at least 2 inches high. The name and address must be legible for 25 feet.

4. Vehicles which are not fully licensed in Louisiana and are domiciled outside Louisiana shall be checked as they leave Louisiana to insure that the driver has purchased enough fuel in Louisiana to cover the miles traveled in Louisiana.

a. At enforcement units which are not at points of exit from Louisiana, vehicles using special fuels shall not be checked for special fuels invoices or for working speedometers, odometers, or hub meters. Fuel tax assessment forms shall not be filled out. These vehicles shall be checked for the company's name and address on the cab doors.

b. If the company is on the list of Bonded Special Fuels Users, as maintained within the Louisiana Department of Revenue, vehicles shall not be checked for special fuels invoices or for working speedometers, odometers, or hub meters at any enforcement unit. Fuel tax assessment forms shall not be filled out. These vehicles may be checked for the company's name and address on the cab doors.

c. Vehicles which are exempt from licensing (such as farm equipment and off-road equipment) shall not be checked at any enforcement unit for special fuels invoices; working speedometers, odometers, or hub meters; or for the company's name and address on the cab doors. No fuel tax assessment form shall be filled out.

D. Bulk Gasoline Transports

1. The drivers of all bulk gasoline transports are required to have a currently dated invoice, bill of lading, or manifest showing the following information:

- a. the seller's and purchaser's names and addresses;
- b. the origin and destination of the gasoline;
- c. the authorized routes to be followed (this applies only to gasoline going to or coming from Texas);
- d. the quantity of gasoline.

2.a. Vehicles transporting bulk gasoline to or from Texas must have an authorization card issued by the Department of Revenue and Taxation. This card may not be transferred from one company to another.

b. The name on the card shall agree with the name on the vehicle. The vehicle must be on a route specified on the authorization card.

3. Bulk fuel transports shall be checked at all enforcement units by Weights and Standards Stationary Scale Police Force officers.

a. Vehicles operated by common or contract carriers licensed by the Interstate Commerce Commission or the Louisiana Public Service Commission shall not be checked. They may be checked, however, for the fuel they use to operate.

b. Vehicles operated by companies on the list of Bonded Gasoline Jobbers or Bonded Gasoline Dealers, as maintained within the Louisiana Department of Revenue, shall be checked for the required information on the invoice, bill of lading, or manifest. If the gasoline is going to or coming from Texas, the vehicle shall be checked for the

proper authorization card and proper route. These vehicles shall also be checked for the fuel they use to operate.

E. Bulk Special Fuels Transports. All vehicles transporting bulk special fuels shall be allowed to proceed. These vehicles shall, however, be checked for the fuel they use to operate.

F. Fuel Tax Violations

1. Users of Gasoline and Special Fuels

a. If an unbonded gasoline or special fuels user has a proper fuel invoice, but has not purchased enough fuel to cover all the miles traveled in Louisiana, then the officer shall assess the fuel tax, but no violation ticket shall be written.

b. If an unbonded gasoline or special fuels user has an improper fuels invoice or no fuel invoice, then the officer shall issue a violation ticket and assess a fine of \$25. Fuel tax shall be assessed in addition to the fine.

c. If a user of special fuels does not have a working speedometer, odometer, or hub meter, the officer shall issue a violation ticket and assess a fine of \$25.

d. If a user of special fuels does not have the name and address of the company on both cab doors, the officer shall issue a violation ticket and assess a fine of \$25. If the company's name and address is on only one door, no violation ticket or fine will be assessed. The driver will receive a warning of the violation. However, if corrections have not been made within five days, a violation ticket for \$25 shall be issued.

e. No ticket shall be issued on any new transient vehicles or any new vehicle with less than 2,000 miles on the mileage indicator.

f. Fuel tax violations are cumulative.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:2 et seq.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways, LR 5:31 (February 1979), amended by the Office of Operations, LR 50:

**§109. Procedures for Citing Violators
[Formerly §111]**

A. Issuing Notice of Violations

1. When any carrier, transport vehicle, or driver is found to be in violation of any provision of this Chapter, the violating party shall receive a "Notice of Violation, Proposed Finding and Proposed Civil Penalty" (hereinafter referred to as a "notice of violation") within 30 days of the violation.

2. Notices of violation shall provide specific information regarding the violation that is being cited. This information shall include the highway, parish, and the side (North, South, East, West) on which the citation is being issued. This information shall also include the specific nature of the violation and the number of the statute that was violated.

Statute	Violation	Fine
32:380	Overwidth	\$100
32:381	Overheight	\$100
32:382	Overlength, Overhand, Twin Trailer Combination	\$100
32:383	Dropping, Shifting or Leaking Load	\$100
32:384	Trailer and Towed Vehicle Violations	\$100
32:385	Farm Vehicle and Equipment Violations	\$100
32:386	Over Legal Gross Vehicle Weight or Over Legal Axle Weight	(see chart)
32:386	Improper Distribution of Axle Weight	\$100

Statute	Violation	Fine
32:387	Over Permitted Weight	(see chart)
32:387	Violating Terms or Conditions of Permit Issuance—Other than Weight	\$100
32:387	Permit Not in Vehicle	\$ 25
32:388	Over Licensed Weight	\$100
32:388	Failure to Stop at Stationary Scale	\$100
47:511.1	No Temporary 48-Hour Permit	\$200
47:516	Improper, Expired or No License and Registration	(No fine by DOTD)
47:718	Nonpayment of Gasoline Tax	\$ 25
47:812A	Cargo Tank Connected to Carburetor	\$ 25
47:812B	Nonoperating Speedometer, Odometer, or Hub Meter	\$ 25
47:812C	Owner's Name and Address Not on Outside of Cab Doors	\$25
47:812D	Nonpayment of Special Fuels Tax (No Invoice)	\$ 25

3. Notices of violation shall clearly indicate if a monetary penalty is assessed, or if the notice of violation is only a warning. Notice of violation warning shall only apply to over axle weight violations. If a monetary penalty is assessed, the amount of such penalty shall be clearly indicated on the notice of violation. The fines for violations of Title 32 are not cumulative, but a violator may be assessed more than one fine for violations of Title 47 or for violating both Title 32 and Title 47.

4. If the vehicle was found to be overweight, the notice of violation shall clearly indicate the measured weights and the contents of the load/commodity type.

5. For a violation of R.S. 47:516 where a fine is not assessed, the driver shall be instructed to report to the nearest Vehicle Registration Bureau of the Department of Public Safety to secure the proper registration and license within five days.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:2 et seq.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways, LR 5:33 (February 1979), amended by the Office of Operations, LR 50:

Chapter 3. Oversize and Overweight Permit Laws and Regulations

§301. General Information

A. General Regulations

1. An oversize or overweight permit must be obtained to operate a vehicle which exceeds the legal size or weight on the highway.

2. In general, oversize and overweight permits are issued only for indivisible vehicles and loads. Indivisible vehicles or loads are those which cannot be easily divided, broken down, or dismantled to conform to the legal limitations.

3. The following vehicles transporting divisible loads are eligible to obtain permits:

a. vehicles transporting pipe loaded across a vehicle, rather than lengthwise, are eligible for overwidth permits as long as the width of a vehicle and load does not exceed 8 feet, 8 inches;

b. vehicles transporting up to three bundles of prepacked or strapped oil field pipe are eligible for overwidth permits if the load does not exceed 10 feet in width;

c. vehicles transporting pulpwood or plywood bolts loaded across a vehicle, rather than lengthwise, are eligible for forest product permits;

d. vehicles transporting farm products in their natural state are eligible for harvest season permits;

e. waste vehicle transporting divisible loads are eligible for waste vehicle permits and steering axle permits;

f. when all parts which have been or can be easily divided or dismantled from a shipment weigh altogether 500 pounds or less, these parts may be moved along with indivisible part of the shipment as one load.

4. Exceptions to Oversize and/or Overweight Permit Requirements

a. When all parts which have been or can be easily divided or dismantled from a shipment with an aggregate weight of 500 pounds or less, these parts may be moved along with the indivisible part of the shipment as one load.

b. Vehicles transporting an oversize/overweight dozer will be allowed to remove its blade or sideboom and haul it on the same vehicle.

c. Vehicles transporting pipe loaded across a vehicle, rather than lengthwise, will be eligible for overwidth permits as long as the width of the vehicle and load does not exceed 8 feet 8 inches.

d. Vehicles transporting up to three bundles of prepackaged oil field pipe may not exceed 10 feet in width.

e. Vehicles transporting farm products in their natural state will be eligible for harvest season permits.

f. Vehicles transporting forest products in their natural state will be eligible for a natural forest product permit.

g. Vehicles transporting pulpwood or plywood bolts loaded across a vehicle, rather than lengthwise, will be eligible for forest product permits as long as the width does not exceed 9 feet.

h. Waste vehicle transporting divisible loads will be eligible for waste disposal truck permits.

i. Vehicles transporting oversize loads will only be allowed to create an over height dimension as long as there is at least one permitted dimension, and all the dimensions for the load are shown on the permit. Over width and over length dimensions may never be created.

j. Trucks transporting commodities from a port located on the Mississippi River via a bridge over the Mississippi River to a facility located in the same parish as the bridge, provided the bridge is not on the Interstate System.

5. Vehicles must be licensed for the statutory maximum allowable license weight in order to obtain an overweight permit.

6. All permits must be obtained before movement of an oversize or overweight vehicle or load begins, if intrastate, or before the vehicle enters Louisiana, if interstate.

7. The permit must be in the vehicle for which it was issued and must be available for inspect by proper authorities at all times.

B. Permit Authority. Permits are issued by the DOTD truck permit office. Officials at this office have final authority on which vehicles or loads will be granted permits.

The truck permit office also has the final authority on the disposition of any vehicles or loads which have or require a permit.

1. - 5. Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:2 et seq.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways, LR 5:35 (February 1979), amended by the Office of Operations, LR 50:

§303. Types of Permits

[Formerly §305]

A. Oversize Permits. These permits are for vehicles and loads which exceed the legal limitations on width, height, length, or projecting loads. The fee is \$10 for a single trip if the trip lasts less than one day or \$10 per single day if the trip lasts more than one day.

B. Overweight Permits. These permits are for vehicles and loads which exceed the legal limitations on axle weight or gross vehicle weight. They may be valid for vehicles or loads which are both oversize and overweight if the dimensions are noted on the permit. These permits are valid for a single trip, and the fee shall be based on weight and the distance to be traveled. If a vehicle and load are both oversize and overweight, only the overweight fee is charged.

C. Monthly Oversize Permits. These permits are for vehicles and loads that exceed the legal limitations on width, height, length, or projecting loads. These permits are not for vehicles and loads that exceed the legal weight limitations. Vehicles and loads may not be more than 12 feet wide; more than 14 feet, 4 inches high; or more than 90 feet long. Monthly oversize permits may be valid for as long as 12 months and may be issued for Monday through Friday only, Monday through Saturday only, or for every day of the week (except holidays when requested). The fee is \$10 for each day that the permit is valid.

D. Forest Product Permits. These permits are for vehicles transporting plywood bolts or pulp-wood which exceeds the legal limitations on width. The permits allow a maximum width of 9 feet when the pulpwood or plywood bolts are transported across the vehicle, rather than lengthwise. They are valid for a year, but may be used only on non-interstate highways. The fee is \$10 a year. On interstate highways oversize permits must be purchased on a daily basis. Vehicles with forest product permits are permitted to travel during moderate weather, or on holidays, but they are prohibited from traveling at night.

E. Forest Management Equipment Permits. These permits are for forest management equipment which exceeds the legal limitations on width. These permits will allow a maximum width of 10 feet. General construction equipment (bulldozers, draglines, graders, etc.) is excluded from this permit; included are rubber-tired and tracktype skidders, tree shears, feller bunchers, tree planting equipment, log loaders, shredders, yarders, tractors, chippers, portable chippers, drum choppers, pre-haulers, and fire plows. These permits are valid for a year, but only on noninterstate highways. Oversize permits must be obtained for travel on interstate highways. The fee is \$5 a year. Vehicles with forest management equipment permits are not prohibited from traveling on Sundays after 1 p.m., on holidays, or during moderate weather, but are prohibited from traveling at night. Forest management equipment permits may be issued on

regular forms (P-forms), transmitted forms (telecopies), or control forms (C-forms).

F. Waste Vehicle Permits. These permits are for waste vehicles which have single axles on the rear and which exceed the legal limitations for axle weight on the rear axle. A waste vehicle permit will allow a maximum of 23,000 pounds on the rear axle. The overweight rear axle must be equipped with dual-mounted tires, and tires on the overweight axle must have a width of 10.00 or larger. These trucks must have been in actual use in Louisiana by January 1, 1977; trucks purchased after this date do not qualify and must meet the legal limitations. Waste vehicle permits are valid only on non-interstate highways. These vehicles must be of legal weight on interstate highways. These permits are valid for a year, and the fee is \$10 a year. Vehicles with waste vehicle permits are not prohibited from traveling at night, during moderate weather, or on holidays

G. Steering Axle Permits. These permits are for equipment which is primarily used off-road, which only occasionally uses the state-maintained highway system, and which exceeds the legal axle weight on the steering axle, due to its design. (Rig-up trucks may obtain a steering axle permit if their length does not exceed 45 feet and their width does not exceed 10 feet. No load may be carried by a rig-up truck with a steering axle permit, and another vehicle may not be towed by the truck). A vehicle with a steering axle permit must be equipped with tires of 10.00 width or larger. These permits are valid for a year, and only on non-interstate highways. Overweight permits for travel on interstate highways must be purchased on a single-trip basis. The fee is \$15 a year. If a waste vehicle requires both a waste vehicle permit and a steering axle permit, only the fee for the steering axle permit shall be charged. Vehicles with valid steering axle permits are not prohibited from traveling at night, during moderate weather or on holidays

H. Harvest Season Permits

1. These permits are for vehicles which haul farm products in their natural state and which exceed the legal limitations on gross vehicle weight or axle weight. (A 500-pound variance shall be added to the permitted axle weight as long as the permitted gross vehicle weight is not exceeded.)

2. On non-interstate highways the maximum weights are:

- a. gross vehicle weight—86,600 pounds;
- b. single axles—22,000 pounds (500 pounds variance = 21,200 pounds);
- c. tandem axles—37,000 pounds (500 pounds variance = 35,700 pounds).

3. On interstate highways the maximum weights are:

- a. gross vehicle weight—83,400 pounds;
- b. single axles—20,000 pounds (500 pounds variance = 20,300 pounds);
- c. tandem axles—35,200 pounds x 500 pounds variance = 35,700 pounds).

4. These permits are valid for a year, and the fee is \$10 a year. Vehicles with harvest season permits are not prohibited from traveling at night, during moderate rain or on holidays. These permits may be purchased online.

I. Oil Field Equipment Permits. These permits are for a combination vehicle which are designed to transport oil field equipment and which exceed the legal length and width

limitations. These permits allow a combination vehicle to have a maximum length of 70 feet and a maximum width of 10 feet. Oil field equipment permits are valid on interstate highways at 70 feet long and 8 feet 6 inches wide, and on non-interstate highways, only when no load is being carried. Oversize or overweight permits must be obtained when the vehicle is carrying a load or when the vehicle is traveling on interstate highways. The fee is \$15 for a month. Vehicles with oil field equipment permits are permitted to travel on holidays, at night, or during moderate rain.

J. Vehicles Hauling Sugarcane. These permits are issued annually for vehicles hauling sugarcane at a gross weight not to exceed 100,000 pounds. The vehicle and trailer combination must meet all other Louisiana legal requirements and shall have a minimum of 18 wheels.

K. Special Permits for Transporting Hay

1. If there is a declaration of emergency or disaster in this state or another, for causes such as but not limited to severe and extended drought conditions, special permits may be issued by the secretary of DOTD for those vehicles transporting hay. The permit fee shall be \$10 and shall be valid for only as long as the emergency exists, not to exceed one year. In addition, the following restrictions shall apply.

a. The total length of the vehicle and trailer shall not exceed 65 feet on non-interstate routes and the load and trailer shall not exceed 59 feet 6 inches on Interstate routes. The total weight of the vehicle and trailer shall not exceed 80,000 pounds for a quint axle rig and 83,400 pounds for a 6 axle rig which also must include a tridum. Vehicles transporting hay bales loaded side by side across trailers shall not exceed 12 feet in width and 14 feet in height.

b. Travel is limited to daylight hours beginning at sunrise and ending at sunset and is limited by all no movement requirements on certain holidays.

c. Vehicles must travel with the required signs and flags properly placed and indicating that they carry oversized loads.

d. Vehicles must be equipped with mirrors that allow drivers to have a clear view of the highway to at least 200 feet to the rear of the vehicle.

e. Loads must be securely bound to the transporting vehicles.

f. Carriers, owners and drivers of any vehicle being operated are responsible for verifying in advance that the actual dimensions and weights of the vehicles and loads are acceptable for all routes being traveled.

g. It is the responsibility of the carriers, owners and drivers to track the status of the declared emergencies. In the event the emergency expires prior to the one year period, the owner, carrier and driver shall be responsible for terminating use of the permit.

h. No vehicle shall exceed weight limits posted for bridges and similar structures, or relieve any vehicle or carrier, owner or driver of any vehicle from compliance with any restrictions other than those specified, or from any statute, rule, order or other legal requirement.

L. Containerized Cargo

1. Class I (\$50 per year). These permits are for ocean containers used in hauling prepackaged products for international trade originating from or destined to an intermodal facility. This permit allows for the transportation of ocean containers with a gross vehicle weight limitation

not to exceed 80,000 pounds and axle group weight not to exceed 40,000 pounds per tandem axle.

2. Class II (\$375 Biannual). These permits are for ocean containers used in hauling prepackaged products for international trade from or destined to an intermodal facility.

3. Vehicles with containerized cargo permits are allowed movement on interstate and non-interstate highways. These vehicles may travel at night, during moderate rain, or on holidays.

M. Forest Management Equipment (\$10 per Year)

1. These permits are for forest management equipment which exceeds the legal limitations on width. It will allow a maximum width of 10 feet. General construction equipment (bulldozers, draglines, graders, etc.) are excluded from this permit.

a. Included are:

- i. rubber-tired and track-type skidders;
- ii. tree shears;
- iii. feller bunchers;
- iv. tree planting equipment;
- v. log loaders;
- vi. shredders;
- vii. yarders;
- viii. tractors;
- ix. chippers;
- x. portable chippers;
- xi. drum choppers;
- xii. prehaulers; and
- xiii. fire plows.

b. These permits are valid for one year, and only on non-interstate highways.

c. Oversize permits must be obtained for travel on interstate highways.

2. Vehicles with forest management equipment permits may travel on holidays, but are prohibited from traveling at night and during heavy rain.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:2 et seq.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways, LR 5:37 (February 1979), amended by the Office of Operations, LR 50:

§305. Maximum Permit Weights Allowed

[Formerly §711]

A. Road and structural design capacities dictate that, generally, the following weights will be the maximum weights for which overweight permits will be issued.

1. Off-Road Equipment

- a. Each Single Axle—30,000 pounds.
- b. Each Tandem Axle—60,000 pounds; however, any vehicle with a tandem axle weighing over 48,000 pounds must have removed all counterweights and other easily removable components.
- c. Each Tridum Axle—66,000 pounds; however, any vehicle with a tridum axle weighing over 60,000 pounds must have removed all counterweights and other easily removable components.

2. All Other Vehicles

- a. Each Single Axle—24,000 pounds if the gross vehicle weight is 120,000 pounds or less, but 20,000 pounds of the gross vehicle weight exceeds 120,000 pounds.
- b. Each Tandem Axle—48,000 pounds if the gross vehicle weight is 120,000 pounds or less, but 45,000 pounds

if the gross vehicle weight exceeds 120,000 pounds and the spread between axle groups is a minimum of 12 feet and the spread between tires in a group is a minimum of 4 feet.

c. Each Tridum Axle—60,000 pounds.

d. Each Tandem Trunion Axle Group (16 tires)—54,000 pounds.

3. Gross Vehicle Weight—232,000 pounds. Permit requests for gross vehicle weights exceeding 232,000 pounds require detailed information, and inquiries should be directed to the truck permit office well in advance of the movement. Since railroads and navigable waterways are adequate for the movement of loads in excess of 232,000 pounds, these facilities must be used instead of highways, except for the hauling necessary to move a load from its origin to the nearest railway or waterway and/or to move a load from the railway or waterway to its destination.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:2 et seq.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways, LR 5:26 (February 1979), amended by the Office of Weights, Measures and Standards, LR 22:120 (February 1996), amended by the Office of Operations, LR 50:

§307. Permit Axle Weight Distribution

[Formerly §713]

A. If a tandem, tridum, or quadrum axle group is permitted for a weight which is less than or equal to the legal axle weight, then the axle must comply with the legal axle weight distribution. If the axle group is permitted for a weight which exceeds the legal axle weight, then the axle must comply with the following.

1. Tandem axles on vehicles with permits are properly distributed if neither of the individual axles carries more than 60 percent or less than 40 percent of the total tandem weight shown on the permit.

2. Tridum axles on vehicles with permits are properly distributed if none of the individual axles carries more than 40 percent or less than 25 percent of the total tridum weight shown on the permit.

3. Quadrum axles on vehicles with permits are properly distributed if none of the individual axles carries more than 30 percent or less than 20 percent of the total quadrum weight shown on the permit.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:2 et seq.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways, LR 5:26 (February 1979), amended by the Office of Weights, Measures and Standards, LR 22:120 (February 1996), amended by the Office of Operations, LR 50:

§309. Obtaining Permits

[Formerly §307]

A. There are five ways to obtain permits.

1. Walk-In Service. Permits may be purchased by appearing in person at the truck permit office in Baton Rouge. All information required on a permit form must be furnished at this time.

2. Mail

a. Applications for permits which are mailed must include all the information required on a permit form before the permit can be issued.

b. The application must be accompanied by an accepted form of payment.

c. The permit which is sent by return mail to the permittee must be carried at all times in the vehicle for which it was issued.

3. Wire Service

a. These companies will charge a permittee the Louisiana permit fee established by law and a service charge approved by the department.

b. All information required on a permit form must be provided by a phone call to the truck permit office or online before the permit will be issued.

4. Charge Accounts

a. A surety bond or an irrevocable letter of credit must be posted with the truck permit office to establish a permit charge account. The insurance agency must execute the bond in the minimum amount of \$1,000 or in increments of \$1,000 to an amount equal to or exceeding the customer's monthly billing.

b. It is required that the original of the bond, a power of attorney for the principal, and a power of attorney for the insurance company be furnished to the truck permit office.

c. Customers who fail to pay the full invoice amount on a charge account within 30 days of the billing date may have further charging privileges revoked, and the department may revoke their charge account bond.

d. A control number permit form can be activated by filling it out completely in ink and then by either placing a telephone call to the truck permit office or submitting it online. The form is not valid without the permit number which is supplied by the DOTD permit issuing official at the time of activation.

e. Facsimile copies of valid charge account permits will be acceptable provided the copies are legible. The department reserves the right to refuse and/or discontinue the acceptance of facsimile copies.

5. Prepaid Permits

a. Prepaid permit forms may be purchased for \$10 each at the truck permit office or by mail. These forms are for customers who do not have a charge account, but wish to purchase forms in advance of their use.

b. Prepaid permit forms can only be used for oversize permits and are valid for a single trip, if the trip lasts less than one day, and for a single day, if the trip lasts more than one day.

c. A prepaid permit form is activated by filling it out completely, and then by either placing a telephone call to the truck permit office or submitting it online. The form is not valid without the permit number which is supplied by the DOTD permit issuing official at the time of activation.

d. A blank oversize prepaid permit form shall be validated within 12 months from the date of purchase.

e. Facsimile copies of valid oversize prepaid permits will be acceptable provided the copies are legible. The department reserves the right to refuse and/or discontinue the acceptance of facsimile copies.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:2 et seq.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways, LR 5:26 (February 1979), amended by the Office of Weights, Measures and Standards, LR 22:120 (February 1996), amended by the Office of Operations, LR 50:

§311. Permit Restrictions
[Formerly §309]

A. Enforcing Permit Restrictions

1. The truck permit office may place additional restrictions on a permit.

2. The Weight and Standards Stationary Scale Police Force officer shall see that all restrictions shown on the permit have been followed before a vehicle is allowed to proceed, unless directed otherwise by the truck permit office.

3. If an officer suspects that a normal restriction has been omitted from the permit (for example, a load 100 feet long without an escort), the truck permit office shall be contacted for verification. No violation report shall be issued for restrictions which were overlooked by the permit office; however, the vehicle shall be delayed until necessary restrictions have been met.

B. Escorts

1. Private escorts are required for vehicles and loads:

- a. over 12 feet wide and up to 16 feet wide;
- b. over 90 feet long and up to 125 feet long.

2. State police escorts are normally required for vehicles and loads;

- a. over 16 feet in width;
- b. over 125 feet in length;
- c. on any vehicle or load deemed necessary by the department.

3. An escort vehicle may escort two overlength vehicles or loads, but only one overwidth vehicle or load.

4. An escort vehicle must be behind overlength vehicles and loads. On a multilane highway it must be behind an overwidth vehicle or load and on a two-lane highway it must be in front of an overwidth vehicle or load.

5. The assistant district administrator of operations must approve all movements over 18 feet wide, such as houses. This may be done by a letter which grants permission for the movement or by sending a representative from the district office to escort the movement. Either the letter or the representative must be present before the movement can proceed.

C. Interstate Movement

1. Vehicles and loads with forest product permits, forest management equipment permits, oil field equipment permits, and steering axle permits are prohibited from moving on interstate highways.

2. Vehicles and loads over 16 feet wide require approval to move on interstate highways.

D. Night, Inclement Weather, and Holiday Movement

1. Most vehicles and loads requiring a permit will be prohibited from moving at night, in inclement weather, and on certain designated holidays by the truck permit office.

2. Vehicles requiring oversize permits shall not be allowed to cross the Mississippi River Bridges in Baton Rouge nor New Orleans from 6:30 to 9 a.m. and from 3:30 to 6 p.m. Except in cases of emergencies, these vehicles may not be parked within 75 feet of the highway if they are within 2 miles of the bridges. Vehicles with valid utility vehicle permits are exempt from these restrictions if they are being operated by a public utility.

3. The following vehicles and loads may travel on holidays or at night:

a. vehicles with valid waste vehicle permits, steering axles permits, harvest season permits, utility vehicle permits, and oil field equipment permits;

b. vehicles with valid oversize and overweight permits:

i. if the load does not project beyond the boundaries of the vehicle;

ii. if the width of the vehicle and load does not exceed 8 feet 6 inches;

iii. if the height of the vehicle and load does not exceed 14 feet, 4 inches; and

iv. if the weight of the vehicle and load does not exceed 120,000 pounds.

4. The following vehicles and loads may travel on holidays, shall not travel at night:

a. vehicles with valid forest product permits or forest management equipment permits;

b. vehicles with valid oversize permits which are transporting pipe loaded across the vehicle (rather than lengthwise) and which do not exceed 8 feet, 8 inches in width (including the pipe).

5. Severe Weather. Vehicles and loads requiring a permit are prohibited from traveling during weather which is physically severe, such as extremely heavy rain, heavy fog, icy road conditions, heavy snow, or any continuous condition which creates low visibility for drivers or hazardous driving conditions. However, vehicles with valid utility vehicle permits may travel in severe weather.

6. Moderate Weather. In general, the following vehicles and loads are permitted by the truck permit office from traveling during moderate weather:

a. vehicles with valid forest product permits, forest management equipment permits, utility vehicle permits, waste disposal permits, steering axle permits, harvest season permits, and oil field equipment permits;

b. vehicles with valid oversize and overweight permits:

i. if the load does not project beyond the boundaries of the vehicle;

ii. if the width of the vehicle and load does not exceed 8 feet;

iii. if the height of the vehicle and load does not exceed 14 feet, 4 inches; and

iv. if the weight of the vehicle and load does not exceed 120,000 pounds;

c. vehicles with valid oversize permits which are transporting pipe loaded across the vehicle (rather than lengthwise) and which do not exceed 8 feet, 8 inches in width (including pipe).

7. Mild Weather. Wet pavement, light drizzle, and wind are not considered inclement weather for the purposes of permit movement. Vehicles and loads requiring a permit may travel during these milder weather conditions unless the movement would create a traffic hazard; for example, movement of a load 14 feet wide during rain or movement of mobile homes in wind.

8. If a vehicle that has been prohibited from moving in moderate or severe weather is underway when such weather occurs, the vehicle is required to proceed to a safe place off the roadway and park until the weather clears. During

inclement weather officers at stationary scales locations shall delay such vehicles until the weather clears. Officers on mobile units shall escort such vehicles to a safe place for parking until the weather clears. If the vehicle is observed traveling after being directed to stop, a violation report shall be issued.

E. Red Warning Flags

1. In general, flags are required on vehicles and loads which exceed the legal width. There must be flags at the following points.

a. Four flags, two on the front edges and two on the rear edges, must be attached at the widest points on the part of the vehicle or load which exceeds the legal width.

b. If a load projects only to one side of vehicle of legal width, one flag on the front edge of the load and one flag on the rear edge of the load will be sufficient.

c. If a projecting load does not exceed 3 feet from front to back, one flag on each side will be sufficient.

d. Flags must be attached on any other portion of the vehicle which is wider than the flagged front or rear edges.

2. Generally, red flags are also required on vehicles and loads which exceed the legal length or which have a rear end overhang of more than 4 feet. However, if the overhang clears the pavement by 6 feet or more, red flags are not required. There must be flags at the following points.

a. If the overlength or projecting portion is 2 feet wide or less, one flag must be located at the extreme rear end of the load.

b. If the overlength or projection portion is wider than 2 feet, two flags at the extreme rear end of the load must be located to indicate maximum width.

3. All warning flags must be red and at least 18 inches square. Flags must be either be securely fastened by at least one corner or securely mounted on a staff which keeps the flag upright.

F. Warning Signs

1. Vehicles and loads exceeding 10 feet in width must display two signs with the wording "OVERSIZE LOAD." One sign must be on the front of the vehicle. The other must be on the rear of the load; however, if the sign cannot be attached or clearly read in this position, then the sign must be on the rear of the vehicle itself.

2. Vehicles and loads exceeding 75 feet in length or the legal rear end overhang must display two signs with the wording "OVERSIZE LOAD." These signs must be on the sides of the overhanging part of the load; however, if the signs cannot be attached or clearly read in this position, then the signs must be on the sides of the vehicle. If the rear end overhang clears the pavement by 6 feet or more, no sign is required on the overhang.

3. Vehicles and loads exceeding the legal front end overhang must display one sign with the wording "OVERSIZE LOAD." This sign must be on the front of the vehicle. If the overhang clears the pavement by 6 feet or more, no sign is required.

4. All warning signs must be at least 7 feet long and 18 inches high. The background must be yellow and the lettering black. Letters must be at least 10 inches high with a 1 5/8 inch brush stroke.

G. Warning Lights

1. Lights are required at night and during inclement weather on vehicles and loads which exceed the legal width, in the following places.

a. Two amber lights must be attached at the widest points on the front edges of the overwidth part of the vehicle or load, and these lights must be visible from both the front and the side.

b. Two red lights must be attached at the widest points on the rear edges of the overwidth part of the vehicle or load and these lights must be visible from both the rear and the side.

c. An amber light must be attached on any part of the vehicle or load which is wider than the front or rear edges, and this light must be visible from the front, side and rear.

d. A single light on each side, visible from the front, side, and rear, may be used if the overwidth part of the vehicle or load does not exceed 3 feet from front to back. If the overwidth part is at or near the front of the vehicle, this light must be amber. If the overwidth part is at or near the rear of the vehicle, this light must be red.

2. Lights are required at night and during inclement weather on vehicles and loads which are overlength or have rear end overhangs of more than 4 feet, in the following places.

a. Two red lights, one on each side, must be visible from the side and indicate the extreme rear of the vehicle or load.

b. Two red lights, one on each side, and two red reflectors, one on each side, must be visible from the rear, must be located on the rear of the vehicle or load, and must indicate width of the overlength or projecting part. However, if the overlength or projecting part is 2 feet wide or less, one red light and one red reflector are sufficient.

3. Two or more lights may be combined if the resulting light still conforms to the requirements and its effectiveness is not hurt by the combinations.

4. All lights must be of types approved by state and federal law.

H. Speed Limits. Permit movements are limited to 55 miles per hour unless otherwise noted on the permit.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:2 et seq.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways, LR 5:38 (February 1979), amended LR 18:508 (May 1992), amended by the Office of Weights Measures and Standards, LR 20:463 (April 1994), amended by the Office of Operations, LR 50:

§313. Statewide—Loads Exceeding 16 Feet 5 Inches in Height

[Formerly §716]

A. All loads exceeding 16 feet 5 inches in height that are moving on state highways are required to notify the DOTD district office where the move originates. A district authorization number must be obtained from the district office, as well as all other subsequent district(s) that the load will travel through before application for an oversize/overweight permit is made along with notifying truck permits 48 hours in advance.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:2 et seq.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Weights, Measures and Standards, LR 22:120 (February 1996), amended by the Office of Operations, LR 50:

§315. Loads Exceeding 18 Feet in Height

A. Loads that exceed 18 feet in height must contact the DOTD district office where the move originates for procedures to be followed before a permit will be issued by the truck permit office.

B. The following procedures must be followed before final approval is given and the truck permit office notified that the oversize/overweight permit can be issued.

1. Utility companies and DOTD will not charge trucking companies for any adjustments required to move lines that are below the height approved by the department at the time of their installation. Old utility lines may be set at a lower vertical clearance than currently required, and in these cases the requirement at the time the line was installed will govern. In instances where the load being moved exceeds the required vertical clearance, the trucker will be required to pay in advance for any adjustments or removal that is required.

2. If an estimate of cost is desired prior to movement, it will be necessary for DOTD and the utility companies to be given four working days notice, unless unusual conditions are involved, in order to have sufficient time to survey the route and prepare the estimate.

3. When proper notice is given, DOTD and the utility companies will not charge the trucker for checking the route and preparing a cost estimate. Only one free estimate will be given for each route approval requested.

4. Each cost estimate and final billing will be itemized. Escort fees will be shown as a separate charge on the itemized bill.

5. When moving loads over 18 feet in height, the trucker is to contact the district maintenance engineer requesting a district authorization number. The district maintenance engineer will maintain a list of contacts with each utility company having lines crossing the proposed route. The mover is to call each company, give them the district authorization number, and request clearance to move. When the utility company has completed its investigation of the route involved, it will call both the company requesting clearance and the district maintenance engineer and give their approval. When all the companies involved have given their approval, the district maintenance engineer will call the truck permit office giving the company name and authorization number signifying that all the proper approvals have been received. The truck permit office will issue the permit to use the state highways only after a call has been received from the district maintenance engineer or his representative.

6. At no time, unless unusual conditions are involved, such as the physical relocation of lines or emergencies, will the movement of any load be delayed more than seven days from the point of their first contact by the mover.

7. Utility companies will provide all district's maintenance engineer with the names of one authorized representative and one alternate who can approve routes for their companies.

8. The present procedure involving loads that exceed 18 feet in width will still apply even though the height is 18 feet or less.

9. Lack of cooperation on the part of any utility company will result in DOTD re-evaluating its position on applications for right-of-way permits with regard to that particular company and could ultimately result in their permits being denied.

10. If any trucker fails to follow the adopted procedures by falsifying dimensions to circumvent these procedures, the trucker will be fined if caught, and continual disregard of the policies will result in their being denied permits to move.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:2 et seq.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Operations, LR 50:

§317. Loads Exceeding 18 Feet in Width [Formerly §715]

A. It is recommended that the permission of parish and municipal authorities, utility companies, and private property owners be secured before requesting a permit from the state.

B. Proper protection at railroad crossings must be secured by giving notice to the nearest station agent of the railroad, with a reasonable time allowed for preparation before the movement begins.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:2 et seq.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways, LR 5:26 (February 1979), amended by the Office of Weights, Measures and Standards, LR 22:120 (February 1996), amended by the Office of Operations, LR 50:

§319. Checking Permits [Formerly §311]

A. General Procedures

1. A permit must be carried with the vehicle for which it was issued at all times. Any vehicle requiring a permit which does not have a permit with it shall be fined. A permit may be carried in an escort vehicle as long as the escort vehicle is not separated from the vehicle requiring the permit.

a. Oversize permits are issued at \$10 per trip if the trip lasts less than one day and \$10 per day if the trip lasts more than one day. Vehicles observed making more than one trip per day with an oversize permit have an invalid permit for the second trip. Anytime the prepaid permit form is used, the permit is valid for only one day and one trip except mobile homes.

b. Monthly oversize permits are issued for Monday through Friday only, Monday through Saturday only, or for every day of the week. Holidays may be excluded. The monthly oversize permit may be used for more than one trip per day.

c. Overweight permits are issued for one trip. The number of days allowed for the trip will be indicated by the "Date Movement Begins" and "Date Movement Ends."

d. Waste vehicle permits, steering axle permits, forest product permits, and forest management equipment permits, which are issued for a year, must have a valid "Expiration Date."

e. Harvest season permits, which are issued for a year, must have a valid Expiration Date.”

f. Oil field equipment permits are issued for a month and must have a valid "Expiration Date."

2. The number of axles noted on the permit shall be compared to the number and type (tandem, etc.) on the vehicle. The axle weights and the gross vehicle weight on the permit shall be matched against the weights shown on the scales. The scale weights must be equal to or lower than the weights on the permit.

a. Prepaid permit forms may not be used for overweight loads.

b. Permits on regular forms, transmitted forms, and control forms that are for overweight are also valid for oversize if the dimensions are shown on the permit. This does not apply to waste vehicle permits or harvest season permits, which have been limited to vehicles and loads which are only overweight.

c. If the gross vehicle weight is under the weight shown on the permit, vehicles with harvest season permits shall be allowed a 500-pound variance on each single axle or axle group (tandem, tridum, quadrum, quint).

d. No load may be carried by vehicles with oil field equipment permits or by rig-up trucks with steering axle permits.

3. All dimensions on the vehicle or load (width, height, length, front and rear overhang) must be equal to or less than the dimensions listed on the permit.

4. The movement shall also be compared to the "Restrictions" and "Remarks" sections of the permit:

- a. night movement;
- b. inclement weather movement;
- c. holiday movement;
- d. warning flags;
- e. warning lights;
- f. warning signs;
- g. speed;
- h. escorts; and
- i. any other limitations added to the permit by the truck permit office.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:2 et seq.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways, LR 5:40 (February 1979), amended by the Office of Weights Measures and Standards, LR 20:463 (April 1994), amended by the Office of Operations, LR 50:

§321. Permit Violations [Formerly §313]

A. General Procedures

1. If a vehicle or load requires a permit and is operating without a valid permit or violating conditions of a permit, the officer shall issue a violation report for the violation that results in the greatest fine.

2. Drivers shall be given the opportunity to shift loads to reduce or eliminate permit fines as long as no part of the load is removed from the vehicle.

3. The axle variance on non-interstate highways shall be allowed for vehicles with oversize permits. Vehicles with overweight permits which have exceeded their permitted axle weight shall not be allowed any additional axle variance. However, vehicles with harvest season permits

shall be allowed a 500-pound variance on each single axle or axle group (tandem, tridum, quadrum, or quint) if the gross vehicle weight is under the weight shown on the permit.

4. Indivisible vehicles or indivisible loads exceeding the legal limitations without a permit or violating the restrictions of a permit will be issued a notice of violation.

5. If the initial weighing shows that the maximum allowable axle weights are exceeded, drivers will be allowed to shift the loads carried by their vehicles for a second weighing in order to reduce or eliminate penalties for excess axle weights, so long as no part of the load is removed.

6. In case of multiple violations of size, weight and permits, the penalty assessed will be for the violation which gives the greatest penalty. However, multiple weight violations are susceptible to additional penalties.

7. If upon expiration of a 90-day period any penalty assessed remains unpaid, the department may institute a civil suit in the parish in which the violation occurred or in the domicile of the owner or driver to collect any penalty assessed but unpaid.

B. Handling Permit Violations

1. No Permit, Oversize. If an indivisible vehicle or indivisible load exceeds the legal limitations or department regulations for width, height, length, or projecting loads and is operating without a valid permit when one is required the officer shall issue a violation report and assess a penalty of \$100. The vehicle or load shall remain at the scale until a valid permit is obtained and all conditions for the permit have been met.

2. No Permit, Overweight. If an indivisible vehicle or indivisible load exceeds the legal limitations or department regulations for axle weight or gross vehicle weight and is operating without a valid permit when one is required, a penalty shall be assessed from the overweight penalty chart referenced in this document. The fine must be based on either the number of pounds over legal gross weight or on the number of pounds over legal axle weight or on the number of pounds over legal axle weight on all overweight axles, whichever results in the greater fine. The vehicle or load shall remain at the scale until a valid permit is obtained and all conditions for the permit have been met.

3. With Permit, Oversize. If an indivisible vehicle or indivisible load exceeds the width, height, length, front end overhang, or rear end overhang allowed by a valid permit the officer shall issue a violation report and assess a fine of \$100. The vehicle or load shall remain at the scale until the driver increases the permit's size to the size being carried and meets any additional conditions imposed by the truck permit office.

4. With Permit, Over Axle Weight Only

a. If an indivisible vehicle or indivisible load exceed the axle weight, but not the gross vehicle weight, allowed by a valid permit; then no ticket shall be issued (except for harvest season permits, waste disposal truck permits, and steering axle permits), The officer shall contact the truck permit office.

i. If the truck permit office requires modification of the hauling equipment or additional dismantling of the vehicle or load, the vehicle or load shall remain at the scale until these conditions have been met.

ii. If the truck permit office requires that the vehicle or load be returned to an adjoining state or point of

origin in Louisiana, the officer shall release the vehicle or load from impoundment.

b. If a vehicle or combination vehicle has a harvest season permit, waste vehicle permit, or steering axle permit, and exceeds the axle weight but not the gross vehicle weight allowed by a valid permit, then the officer shall issue a violation report and assess a penalty from the overweight penalty schedule contained in this document. The fine shall be based on all pounds in excess of the permit's axle weight.

i. The vehicles with steering axle permits shall remain at the scale until the permit's weight has been increased to the weight being carried.

5. With Permit, Over Gross and Axle Weights

a. If an indivisible vehicle or indivisible load exceeds both the axle weight and the gross vehicle weight allowed by a valid permit (except for harvest season permits, waste vehicle permits, and steering axle permits), the officer shall issue a violation report and assess a penalty on all pounds in excess of the permit's gross weight from the chart for assessing penalty for violation of weight limitations stated on an overweight permit. The vehicle or load shall remain at the scale until the driver increases the permit's weight to the weight being carried. The permit fee charged shall be only for the difference between the fee already paid and the correct permit fee.

i. If the truck permit office requires modification of the hauling equipment or additional dismantling of the vehicle or load, the vehicle or load shall remain at the scale until these conditions have been met.

ii. If the truck permit office requires that the vehicle or load be returned to an adjoining state or point of origin in Louisiana, the officer shall then allow the vehicle or load to leave the scale.

b. If a vehicle or combination vehicle has a harvest season permit, waste vehicle permit, or steering axle permit and exceeds both the axle weight and the gross vehicle weight allowed by a valid permit, the officer shall issue a violation report for the greater of the penalties from the chart on all pounds in excess of the permit's gross vehicle weight or a penalty from the overweight penalty schedule on all pounds in excess of the permit's axle weights, both of which charts are contained in this document.

i. The vehicles with steering axle permits shall remain at the scale until the permit's weight has been increased to the weight being carried.

6. Permit Restriction Violations

a. When restrictions have been written on a permit or when the truck permit office confirms that their master copy shows permit restrictions, then the officer shall issue a violation report and assess a fine of \$100. The vehicle shall remain at the scale until all permit restrictions have been met. This procedure applies to vehicles operating without an escort; traveling on interstate highways, at night, during inclement weather, or on designated holidays; or violating any other permit restrictions except operating without red flags, warning signs, or warning lights.

b. When the above restrictions are not written on a permit and were overlooked or omitted by the truck permit

office, no violation report shall be issued. The vehicle shall, however, be delayed until any restrictions required by the truck permit office have been met.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:2 et seq.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways, LR 5:41 (February 1979), amended by the Office of Weights Measures and Standards, LR 20:463 (April 1994), amended by the Office of Operations, LR 50:

§323. Payment of Violation Penalties

A. The following may be accepted as forms of payment of penalties: certified or cashier's checks or money orders made payable to Louisiana Department of Transportation and Development, or accepted credit card. Personal or company checks shall not be accepted, unless the violator has a posted bond. Payment of fines shall be made immediately.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:2 et seq.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Operations LR 50:

Chapter 5. Legal Limitations for Size and Weight

§503. Legal Limitations

A. - A.1.d. ...

2.a. Axle variances of 2,000 pounds for single axles and 3,000 pounds for tandem, tridum, quadrum and quint axles are allowed on non-interstate highways. Therefore, the maximum legal weights on non-interstate highways are:

- i. single axles—22,000 pounds;
- ii. tandem axles—37,000 pounds;
- iii. tridum axles—45,000 pounds;
- iv. quadrum axles—53,000 pounds;
- v. quint axles—58,000 pounds.

2.b. - 3. ...

4. The sum of the legal axle weights on a vehicle or combination vehicle is its legal gross weight. But regardless of the number and type of axles, the maximum legal gross weight of any vehicle or combination vehicle (except a combination with a tridum or quadrum axle) is 80,000 pounds.

5. Regardless of the number and type of axles, the maximum legal gross weight of any combination vehicle which has a tridum or quadrum axle is 83,400 pounds interstate highways, 88,000 pounds non-interstate highways.

6. ...

B. Bridge Formula

1.a. The bridge formula set forth in 23 U.S.C. 127 and in R.S. 32:386 applies to all vehicles except:

i. Type 6 (five axle configurations with one single axle and two sets of tandem axles) carrying one of the commodities listed in §503.B.2.b;

ii. Type 8 (six axle configuration with one single axle, and one tridum axle) carrying one of the commodities listed in §503.B.2.b;

iii. Type 10 (double-bottom) carrying one of the commodities listed in §503.B.2.b.

b. The above types of vehicles must be carrying the following commodities in their bulk or natural state:

- i. forest products;
- ii. sand;

- iii. gravel;
- iv. agriculture products; or
- v. lumber.

C. - C.4. ...

D. Height. The maximum legal height of a vehicle is 13 feet 6 inches on non-interstate highways and 14 feet on interstate.

E. - E.6. ...

7. Exception. The maximum legal length of the load carried by a combination vehicle transporting forest products in their natural or treated state is 65 feet plus 1 foot additional tolerance in length. However, these vehicles may operate only during daylight hours and must display a 1 foot square red flag on the rear of the load.

8. ...

F. Projecting Loads

1. Equipment that is permanently attached to and cannot be readily removed from a vehicle is not considered a load if the vehicle meets state safety standards and is licensed for use on state highways, and if any projection beyond the vehicle is at least 6 feet above the surface of the highways.

2. A vehicle or combination of vehicles with a projecting load cannot exceed the total length limitations for that vehicle or combination of vehicles. In addition:

a. - b. ...

3. Exception. The load on the rear vehicle of a combination vehicle transporting forest products in their natural state cannot project more than 20 feet beyond the rear of the bed or the back of the rear tire of the vehicle, whichever is further from the cab, and the load must clear the pavement by at least 2 feet. When the rear projection is more than 15 feet, the vehicle may operate only during daylight hours and must display a red flag at least 1 foot square on the rear of the projection.

F.4. - J.1. ...

2. Any load of loose material as defined below being transported by a commercial hauler shall be covered in such a manner as to prevent the load from blowing, spilling, or dropping from the vehicle.

a. Loose material shall include the following: dirt, sand, gravel, or other material that is capable of blowing or spilling from a vehicle as a result of movement or exposure to air, wind currents, or weather, but shall not include agricultural products in their natural state or wood chips.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:2 et seq.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways, LR 7:410 (August 1981), amended LR 9:254 (April 1983), amended by the Office of Weights, Measures and Standards, LR 22:120 (February 1996), amended by the Office of Operations, LR 50:

§504. Department Regulations

A. Posted Bridges

1. Violation reports will be issued for vehicles crossing bridges posted with regulatory weight limit signs that are in excess of the posted limit.

2. Neither the state of Louisiana nor the Department of Transportation and Development shall incur any liability from any injury or property damage caused by the crossing of a posted bridge with a load in excess of posted advisory or regulatory weight limits.

B. Axle Weight Distribution. The law requires reasonable distribution of axle weight on tandem, tridum, quadrum, and quint axle groups. Those vehicles and loads with permits that exceed the legal axle weight must comply with the axle weight distribution as herein in §711. All other vehicles and loads must comply with the following.

1. - 3.b. ...

4. Quint Axles

a. On interstate highways a quint axle group is properly distributed if none of the individual axles carries more than 13,600 pounds.

b. On non-interstate highways a quint axle group is properly distributed if none of the individual axles carries more than 14,300 pounds.

C. Variable Load Suspension Axles. When "Variable Load Suspension" axles are used they must provide for reasonable distribution of axle weight as described in the previous §504.B.1-4. In addition, the regulator that controls the pressure for these axles must be outside the cab. The only control that may be in the cab is that necessary to activate mechanism. The suspension used by these axles may be either hydraulic, air or a combination thereof.

D. Treated Utility Poles. All vehicles or combination vehicles utilizing a balance type utility trailer or a fifth-wheel type utility trailer engaged in the transportation of treated utility poles do not need a special permit for the transportation of utility poles by a utility, its representative, or its contractor for use in the normal operation of its facilities to provide service to the area it serves. No load consisting of such poles shall extend more than 35 feet past the rear of the vehicle and must maintain a minimum clearance of 1 1/2 feet above the ground. All escort requirements will apply for loads exceeding 90 feet in overall length.

E. Tunnels. Hazardous material, flammable material, combustible material, oversize and/or overweight permit loads are specifically prohibited from using any tunnel in the state.

1. - 3. Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:2 et seq.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Weights, Measures and Standards, LR 22:120 (February 1996), amended by the Office of Operations, LR 50:

Chapter 7. Damage Regulations

§701. Liability for Damages

[Formerly §703]

A. Every special permit is issued on the condition that the permittee accepts and uses it at his or her own risk, even though all instructions, directions, and requirements of the department have been followed

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:2 et seq.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways, LR 5:26 (February 1979), amended by the Office of Weights, Measures and Standards, LR 22:120 (February 1996), amended by the Office of Operations, LR 50:

§703. Property Damage Bond

[Formerly §705]

A. A liability bond or certificate of insurance which insures any damage to state property must be posted at the

truck permit office before any permit is issued for vehicles and loads.

B. The minimum amount of the bond or certificate of insurance must be \$100,000 for one trip or \$250,000 for a year.

C. The original of the property damage bond, a power of attorney for the principal, and power of attorney for the insurance company shall be furnished to the truck permit office.

D. Separate bonds shall be posted for the property damage insurance, for insuring payment of charge accounts, and for insuring payment of fines.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:2 et seq.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways, LR 5:26 (February 1979), amended by the Office of Weights, Measures and Standards, LR 22:120 (February 1996), amended by the Office of Operations, LR 50:

§709. Check Weights

A. Single trip permit holders may request a check weight. Check weights require prior authorization from either the truck permit office, or by requesting a check weight on a permit application. Prior authorization for check weights must be confirmed before movement of the vehicle in Louisiana may begin.

B. Check weights will be allowed only if the following criteria is met:

1. it is the permittee's first time hauling a specific load;
2. the truck is under the gross vehicle weight rating;
3. the weight of the load is unknown to the driver; and
4. the permittee receives prior approval, as contemplated in this Section.

C. In order to obtain prior authorization for a check weight, those vehicles which are eligible for permits must have a valid overweight permit for at least the minimum permitted weight. If the vehicle is both oversize and overweight, the vehicle must have a valid oversize and overweight permit. The truck shall contain the correct number of axles that would allow for shifting of the load in order to become compliant.

D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:2 et seq.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways, LR 5:26 (February 1979), amended by the Office of Weights, Measures and Standards, LR 22:120 (February 1996), amended by the Office of Operations, LR 50:

Chapter 9. Laws and Regulations Enforced with Other Agencies

§901. Vehicle Registration and Licensing

A. - A.11.c. ...

d. Companies must pay \$10 annual fee for escort permit and decal.

B. - C. ...

1. If a vehicle has plates apportioned for Louisiana, that vehicle will be allowed to operate both interstate and intrastate in Louisiana. If a Louisiana vehicle has Louisiana apportioned plates, that vehicle may travel to other states which are members of the IRP or which have reciprocity

agreements with Louisiana and operate both interstate and intrastate in those states for which the vehicle is apportioned.

2. ...

3. The original cab card must accompany the vehicle for which it was issued at all times. If the card is defaced or used in any vehicle except the one described on it, it is considered void.

4. Vehicles with plates apportioned for Louisiana cannot exceed the licensed weight for Louisiana shown on the cab card.

5. Repealed.

D. Temporary 48-Hour Trip Permits (Out-of-State Vehicles Only)

1. Out-of-state vehicles, eligible for apportioned registration but not registered as such, will be required to purchase a 48-hour trip permit for a fee of \$25 before proceeding through Louisiana. The permit allows for interstate and intrastate movement.

2. Temporary 48-hour trip permits apply to two types of vehicles.

a. A vehicle which is properly registered in a state which belongs to the IRP (or has a bilateral proportional registration reciprocity agreement with Louisiana), but the vehicle is not apportioned for Louisiana. A temporary 48-hour trip permit is required before the vehicle may operate either interstate or intrastate in Louisiana.

b. A vehicle which is properly registered in a state which does not belong to the FRP (or has a bilateral proportional registration reciprocity agreement with Louisiana), but which does have a reciprocal agreement with Louisiana. A temporary 48-hour trip permit is required before the vehicle may operate intrastate in Louisiana.

3. A temporary 48-hour trip permit allows a vehicle to operate in Louisiana for 48 continuous hours.

4. Temporary 48-hour trip permits must be purchased prior to entering Louisiana. A driver may only purchase a temporary 48-hour if the vehicle or load is not in violation of any other sections of this Title.

5. A temporary 48-hour trip permit must be in the cab of the vehicle for which it was issued from the time the vehicle enters Louisiana.

6. A temporary 48-hour trip permit will allow haulers to carry the Louisiana weight limits.

E. Interstate and Intrastate Operation

1. If a vehicle or combination of vehicles is from an IRP member state (or a state which has a bilateral proportional registration reciprocity agreement with Louisiana) and the motor vehicle has three or more axles or any of the vehicles alone or the combination weighs more than 26,000 pounds, then the motor vehicle must have Louisiana plates, plates which are apportioned for Louisiana, or a temporary 48-hour trip permit in order to operate either interstate or intrastate in Louisiana.

2. If a vehicle or combination of vehicles is from a non-IRP member state (or a state which does not have a bilateral proportional registration reciprocity agreement with Louisiana), but the state has a reciprocal agreement with Louisiana, then the motor vehicle must have a temporary 48-hour trip permit in order to operate intrastate in Louisiana. If the vehicle's home state has a reciprocal agreement with Louisiana, the vehicle or vehicle combination may operate

interstate in Louisiana without purchasing a temporary 48-hour trip permit.

3. Any state's semi-trailer or trailer license plate is honored by Louisiana if the pulling unit is properly registered and licensed.

4. Farm, forest product, public or any other restricted plates are honored by Louisiana if the vehicles are properly registered and licensed in their home state and are not hauling for hire.

F. Fuel Tax. Fuel tax is collected by weights and standards police officers and by the Louisiana Department of Revenue and Taxation, Excise Tax Section, Box 201, Baton Rouge, LA 70821; (225) 925-7656.

G. Vehicles Using Gasoline

1. Gasoline tax is \$0.20 per gallon.

2. Interstate users domiciled outside Louisiana may pay the fuel tax by either of two methods.

a. If the user opts to purchase enough fuel in Louisiana to cover the miles traveled in Louisiana, then the driver must obtain fuel invoices when purchasing fuel in Louisiana. These invoices must be legitimate service station purchase invoices and must show the gallons of fuel purchased. The invoices must be kept so that they can be shown to enforcement officers. If any additional tax is due, it will be collected by enforcement officers before a vehicle leaves Louisiana.

b. If the user opts to post a surety bond with the Department of Revenue and Taxation, then any additional fuel tax due can be paid on a monthly basis. If fuel has been purchased in Louisiana, drivers must have a fuel invoice in their possession when leaving Louisiana.

H. Vehicles Using Special Fuels

1. Special fuels are all fuels used for motor vehicles except gasoline. Special fuels include distillate fuels, such as diesel and kerosene, and also liquefied petroleum gases, such as butane and propane.

2. Special fuels tax is \$0.20 per gallon.

3. All users of taxable special fuels whose vehicles are licensed and domicile in Louisiana must meet the following requirements.

a. The vehicles must be licensed for special fuels with the Department of Revenue and Taxation.

b. Non-IFTA must have a current special fuels invoice in their possession at all times.

c. Vehicles must have a working odometer, speedometer, or hub meter.

d. Vehicles must have the company's name and address on both cab doors in letters at least 2 inches high or adequate identification. The name and address must be legible at a distance of 25 feet in daylight hours. ICC-regulated carriers are allowed company or trade name only.

4. An interstate user of special fuels may determine an average number of miles per gallon of fuel by dividing the total miles traveled by the number of gallons consumed in the entire operation of all their vehicles. The average number of miles per gallon shall not exceed 5 miles per gallon of fuel unless adequate proof is furnished.

5. If the user has no proof of the average number of miles per gallon, the secretary of the Department of Revenue and Taxation will determine the rate to be applied.

6. All interstate users of taxable special fuels whose vehicles are not domiciled in Louisiana must meet the following requirements:

a. Users must post a surety bond with the Department of Revenue and Taxation. Users may then file quarterly reports paying the special fuels tax based on the miles traveled in Louisiana.

b. Exception. Those interstate users who only occasionally travel through Louisiana may not be required to post a surety bond with the Department of Revenue and Taxation. These users must purchase enough fuel in Louisiana to cover the miles traveled in Louisiana, and the driver must have a currently dated special fuels invoice with appropriate information listed thereon before leaving Louisiana.

c. Vehicles must have a working odometer, speedometer, or hub meter.

d. Vehicles must have the company's name and address on both cab doors in letters at least 2 inches high or adequate identification. The name and address must be readable at a distance of 25 feet. ICC-regulated carriers are allowed company or trade name only.

7. A Louisiana special fuels invoice:

a. must be serially numbered;

b. must be printed or rubber-stamped with the name and address of the seller;

c. must include name and address of the purchaser (user);

d. must indicate date of delivery;

e. must show license plate number of the motor vehicle;

f. must show mileage on the odometer, speedometer, or hub meter;

g. must show number of gallons and kind of special fuel purchased;

h. may type, print or rubber stamp fuels invoice;

i. must indicate price of fuel showing tax paid.

8. January 1, 1994, Louisiana became a member of the International Fuel Tax Agreement (IFTA). IFTA is a base-state agreement designed to simplify the administration of state fuel use tax for interstate motor carriers.

9. Carriers based in Louisiana that operate one or more qualified motor vehicles in at least one or more qualified motor vehicles in at least one other IFTA state must be licensed with the Department of Revenue and Taxation. Exceptions are as follows:

a. option to purchase fuel covering the total miles traveled if travel is seldom in Louisiana; or

b. if engaged in lease operations, one may be exempt from the licensing requirements of IFTA depending on the terms of the lease.

10. A carrier's base state is any state where the carrier meets the following requirements:

a. where the carrier has qualified motor vehicles registered;

b. where operational control and operational records are maintained;

c. where motor vehicles that accrue mileage in their base state and another IFTA member state.

11. In Louisiana, there is a one-time application fee of \$35 and a decal fee of \$1 each. The agreement requires two decals for each qualified vehicle.

12. If applicable or additional information is needed, please contact the Louisiana Department of Revenue and Taxation, Excise Tax Section at (225) 925-7656.

I. Vehicles Transporting Gasoline in Bulk

1. To properly identify any gasoline being imported or exported on Louisiana highways, the driver must have a currently dated invoice, bill of lading, or manifest showing the following information:

- a. the seller's and purchaser's names and addresses;
- b. the origin and destination of the gasoline;
- c. the authorized routes to be followed when exporting or importing (border crossing only);
- d. the quantity of each type of gasoline;
- e. who will assume the Louisiana tax liability.

2. Anyone who transports any gasoline from or into Louisiana from or into a state which has a lower tax rate than Louisiana may use only routes authorized by the secretary of the Department of Revenue and Taxation. An authorization card will be issued by the Department of Revenue and Taxation for each vehicle. This card must be kept in the vehicle and is not transferable.

3. Exception. Common or contract carriers licensed by the Interstate Commerce Commission or the Louisiana Public Service Commission.

J. Vehicles Transporting Special Fuels in Bulk

1. Any vehicle transporting bulk special fuels into Louisiana must belong to a supplier who is bonded with the Department of Revenue and Taxation.

2. Exception. Common and contract carriers who are licensed to transport bulk special fuels by the Louisiana Public Service Commission.

3. A vehicle transporting bulk special fuels cannot have the cargo tank connected to the carburetor of the motor vehicle or to the fuel supply tank which feeds the carburetor of the motor vehicle.

K. Litter. No person, firm, or corporation shall intentionally dump, leave, or deposit any glass or metallic objects, trash, refuse, or garbage on any property without the permission of the owner of said property, or on any highway or roadside park, or on any lands adjacent thereto. Whoever violates the provisions in respect to private property, highways, or roadside parks, or any lands adjacent thereto, shall be punished in accordance with the Revised Statutes.

L. - M.5. Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:2 et seq.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Weights, Measures and Standards, LR 20:318 (March 1994), amended LR 22:120 (February 1996), amended by the Office of Operations, LR 50:

Chapter 11. Enforcement Procedures and Penalties

§1101. General Procedures

A. All vehicles, rated 1 ton or over, are required to stop at DOTD stationary scales, except the following:

1. - 6. ...

B. A penalty of \$100 will be assessed to vehicles that fail to stop at stationary scales, or disregard the mobile unit's efforts to stop a vehicle or combination of vehicles.

C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:2 et seq.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways, LR 5:26 (February 1979), amended by the Office of Weights, Measures and Standards, LR 22:120 (February 1996), amended by the Office of Operations, LR 50:

§1103. Legal Limitation Violations

A. Drivers will not be allowed to shift the loads carried by their vehicles after being weighed in order to qualify for a second weighing and a lesser fine amount. The loads may be required to be shifted by weight enforcement police after weighing and before proceeding.

B. Notice of Violation

1. The secretary of DOTD, or his designee, shall send the responsible party a "Notice of Violation, Proposed Finding and Proposed Civil Penalty" within 30 calendar days of the violation. However, the commissioner or secretary shall be granted an additional 60 calendar days to send the Notice of Violation only in the case of a data system failure due to either an act of God, or an intentional sabotage.

2. Each Notice of Violation shall state whether or not a monetary penalty is assessed, or if the Notice of Violation serves only as a warning.

3. When a monetary penalty is assessed, each Notice of Violation, shall be sent to the responsible party by certified mail. The responsible party shall have 45 calendar days from the date of the Notice of Violation to either pay the fine, or to request in writing an administrative hearing to review the Notice of Violation. If the amount of the fine has been negotiated between the secretary of DOTD, or his designee, and the responsible party, the responsible party shall be notified within 30 calendar days from the final negotiation date.

4. After the administrative hearing has occurred and findings have been made by the hearing officer, any appeal of the findings of the hearing officer shall be filed in a state district court with jurisdiction over the matter.

5. The responsible party shall pay all fees and fines by not later than 45 calendar days after the issuance of the Notice of Violation, or not later than 30 calendar days after receiving a notice of final judgment from the administrative law judge following the hearing on the matter.

6. Fines may be paid by certified check, money order, or credit card. Payment made by credit card will be deemed received by the secretary of DOTD when tendered and an approval code is received from the credit card company or processor.

7. If the responsible party fails to timely pay the assessed fine in the prescribed time, the secretary shall transmit the driver's license number to the Office of Motor Vehicles, upon receipt of which the Office of Motor Vehicle shall immediately notify the driver by first class mail that his driver's license shall be suspended for 30 calendar days after the date of the mailing of the notice until such time as all fines assessed by the Notice of Violation, or the final judgment of the administrative law judge, are paid in full, with an additional \$50 fee, payable to the Office of Motor Vehicles, in order to cover its administrative costs.

C. Twin Trailer Combinations, Trailer and Towed Vehicles, Farm Vehicles and Equipment, and Care of Vehicle Loads. If a vehicle, combination vehicle, or load violates Louisiana law or DOTD regulations for twin trailer combinations, trailers and towed vehicles, farm vehicles and equipment, or care of vehicle loads, a \$100 penalty will be assessed and the driver must correct the violation.

D. Oversize. If a vehicle and divisible load exceeds the legal limitations or DOTD regulations for width, height, length, or projecting loads, a \$100 penalty will be assessed and then the driver shall reduce the load to the legal size.

E. Overweight. The amount assessed for an overweight penalty will be for the violation with the greatest dollar value, whether based on gross vehicle weight, axle weight(s), or bridge formula. A \$10 penalty will be assessed for each lesser violation(s).

1. Gross Vehicle Weight or Axle Weight

a. If a vehicle and divisible load exceeds the legal limitations or DOTD regulations for axle weight or gross vehicle weight, these schedules will be used.

Overweight Pounds	Over Gross Weight	Over Axle Weight(s) Only
0 to 3,000	\$0.02 per pound	\$0.01 per pound
3,001 to 5,000	\$0.03 per pound	\$0.015 per pound
5,001 to 10,000	\$0.04 per pound	\$0.02 per pound
10,001 and over	\$100.00 plus	\$100.00 plus
	\$0.05 per pound	\$0.05 per pound

b. If a vehicle exceeds the legal maximum gross weight but not the legal maximum axle weight, the over gross weight schedule is used to assess the penalty.

c. If a vehicle does not exceed the legal maximum gross weight, but exceeds the legal maximum axle weights for any axle or axle groups, the penalties are then computed separately for each axle or group, the sum amount of which is the penalty assessed.

d. If a vehicle exceeds both the legal maximum gross weight and the legal maximum axle weight, both penalties are computed from the over gross weight schedule, and the greater of the two is assessed as the penalty. When two or more single axle or axle groups are overweight, the sum of the penalties of the overweight axles is compared to the penalty on the gross weight, and the greater of the two will be assessed. A \$10 penalty will be assessed for the lesser violation.

2. Posted Bridges. If a vehicle or combination of vehicles is observed crossing a bridge which has regulatory weight limits and the vehicle or combination of vehicles exceeds the posted weight limit on the bridge, a \$100 penalty will be assessed.

3. Escort Vehicles

a. Operating as an escort vehicle when required by oversize/overweight permit unable to pass required inspection, a \$100 penalty will be assessed.

b. Transporting load without an escort when one is required, a \$100 penalty will be assessed.

4. Bridge Formula. If the owner or driver of a vehicle or combination vehicle is in violation of the bridge formula axle spacing requirements, a \$50 penalty will be assessed.

5. Stationary Poles. If a combination vehicle transporting forest products in their natural state is not equipped with stationary vertical retaining poles on the

driver's side of the trailer portion, a \$100 penalty will be assessed.

6. Variable Load Suspension Axles

a. If vehicles equipped with VLS axles are observed to have the regulator for these axles installed in the cab, a \$100 penalty will be assessed.

b. If vehicles equipped with VLS axles are observed operated with axles in the up position when not entering or leaving a turn, the vehicle will be cited as the type represented by the number of axles on the group. The penalty will be calculated from the appropriate overweight chart.

F. Oversize. If an indivisible vehicle or indivisible load exceeds the legal limitations or DOTD regulations for width, height, length, or projecting loads and is operating without a permit or exceeding the size allowed by a valid permit; the penalty will be: \$100, plus the cost of an oversize permit, if a permit was not previously purchased. In addition, any restrictions imposed by DOTD must be met.

G. Overweight

1. No Permit for Weight

a. If a vehicle, vehicle combination, or vehicle/indivisible load combination exceeds the axle weight but not the gross vehicle weight allowed by its permit, then no penalty will be assessed (except for harvest season permits, natural forest product permits, waste vehicle permits, and steering axle permits). However, DOTD may require either additional dismantling of the load, modification of the hauling equipment, or return of the movement to the state of origin or to its point of origin in Louisiana.

b. If a vehicle or combination of vehicles has a harvest season permit or natural forest product permit and exceeds the axle weight but not the gross vehicle weight allowed by the permit, then a penalty will be assessed on all pounds in excess of the permit's axle weights according to the over axle weight only schedule. When two or more single axles or axle groups are overweight, the penalty will be figured for each over-weight single axle or axle group; then all the penalties will be added together. In addition, these vehicles may be required to proceed to the nearest suitable place to off-load to the permitted axle weights at the owner's expense.

c. If a vehicle has a waste vehicle permit or steering axle permit and exceeds the axle weight but not the gross vehicle weight allowed by the permit, a penalty will be assessed from the over axle weight only schedule. The penalty will be based on all pounds in excess of the permit's axle weight.

i. Vehicles with waste vehicle permits may be required to proceed to the nearest suitable place to off-load to the permitted axle weight at the owner's expense.

ii. Vehicles with steering axle permits must increase the permit's weight to the weight being carried.

2. Over Permitted Gross Weight Only

a. If a vehicle, vehicle combination, or vehicle/load combination exceeds the gross vehicle weight but not the axle weight allowed by a valid permit, a penalty will be assessed from the over gross weight schedule. The penalty will be based on all pounds in excess of the permit's gross vehicle weight.

b. Vehicles with overweight permits will be required to increase the permit's weight to the weight being

carried, and the driver will be charged for the difference between the fee already paid and the correct permit fee. DOTD may also require additional dismantling of the load, modification of the hauling equipment, or return of the movement to the state of origin or its point of origin in Louisiana.

c. Vehicles with harvest season or natural forest product permits may be required to proceed to the nearest suitable place to off-load to the permitted gross vehicle weight at the owner's expense.

3. Over Permitted Gross and Axle Weights

a. If a vehicle, vehicle combination, or vehicle/load combination exceeds both the gross vehicle weight and the axle weight allowed by a valid permit, one penalty shall be figured using the pounds in excess of the permit's maximum allowable gross vehicle weight.

b. Vehicles with overweight permits will be required to increase the permit's weight to the weight being carried, and the driver will be charged for the difference between the fee already paid and the correct permit fee. DOTD may also require additional dismantling of the load, modification of the hauling equipment, or return of the movement to the state of origin or its point of origin in Louisiana.

c. Vehicles with harvest season or natural forest product permits may be required to proceed to the nearest suitable place to off-load to the permitted weights at the owner's expense.

H. International Trade Container Permits

1. Containerized Cargo Permit. If a vehicle combination exceeds the permitted maximum allowable weight on tandem axles the minimum, a \$100 penalty will be assessed for violating the terms of the permit. If the vehicle combination also exceeds its maximum gross weight, the penalty will be figured from the appropriate chart and the greater of the two penalties will be assessed plus \$10 penalty for the lesser violation.

2. Liquid Bulk Container Permit. If a vehicle combination exceeds the permitted maximum allowable weight on tandem axles the minimum, a \$100 penalty will be assessed for violating the terms of the permit. If the vehicle combination also exceeds its maximum gross weight, the penalty will be figured from the appropriate chart and the greater of the two penalties will be assessed plus \$10 penalty for the lesser violation.

I. Permit Restrictions

1. If a vehicle is operating without an escort, warning flags, warning signs, or warning lights when they are required by its permit; is traveling at night, during inclement weather, or on a designated holiday when prohibited by its permit; is exceeding the permitted speed limit; or is violating any other permit restrictions, the a \$100 penalty will be assessed and the driver must comply with all permit restrictions.

2. If it is verified that a vehicle has a valid permit, but fails to have the permit in the vehicle for which it was issued, a \$25 penalty will be assessed.

I.2.a. - K.2. Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:2 and 32:386.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways, LR 5:26 (February 1979), amended by the Office of Weights, Measures and Standards, LR 22:120 (February 1996), LR 24:1517 (August 1998), amended by the Office of Operations, LR 50:

§1105. Vehicle Registration and Licensing Violations

A. Improper License or Registration

1. If a vehicle domiciled in Louisiana is operating with an improper Louisiana license or registration (full or apportioned), the penalty will be 25 percent of the annual cost of the proper license. The driver will be required to purchase the proper Louisiana license from the Office of Motor Vehicles. The cost of the Louisiana license on the vehicle will be credited toward the cost of the proper license.

2. Vehicles domiciled in Louisiana that have improper Louisiana license plates (full or apportioned) or an unlawful Louisiana registration will be issued a notice of violation in accordance with the provisions of this Title.

3. If a vehicle is domiciled outside Louisiana, but exceeds its licensed gross weight, a \$100 penalty will be assessed.

4. Repealed.

B. Expired or No License or Registration. If a vehicle domiciled in Louisiana is operating with an expired Louisiana license or registration or no Louisiana license or registration, the penalty will be 25 percent of the annual cost of the proper license.

1. - 3. Repealed.

C. No Temporary 48-Hour Trip Permit. If a vehicle is operating without a temporary 48-hour trip permit when one is required, \$200 penalty shall be assessed, and the driver will also be required to purchase a temporary 48-hour trip permit for \$25.

1. - 2. Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:2 et seq.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways, LR 5:26 (February 1979), amended by the Office of Weights, Measures and Standards, LR 22:120 (February 1996), amended by the Office of Operations, LR 50:

§1107. Fuel Tax Violations

A. Penalties will be due immediately upon receipt of the ticket.

B. Vehicles Using Gasoline

1. ...

2. If the driver of a vehicle which operates on gasoline has no fuel invoice or has an improper fuel invoice, a \$50 penalty will be assessed, in addition to the amount of fuel tax assessed.

C. Vehicles Using Special Fuels

1. ...

2. If the driver of a vehicle which operates on special fuels has no special fuels invoice or has an improper special fuels invoice, a \$50 penalty will be assessed, plus the amount of fuel tax assessed.

3. If a vehicle which operates on special fuels does not have either a working odometer, speedometer, or hub meter, a \$50 penalty will be assessed.

4. If a vehicle which operates on special fuels does not have the true owner's name and address or adequate

identification on both cab doors, a \$50 penalty will be assessed.

5. Vehicles operating with special fuels which have nonworking odometers, speedometers, or hub meters or which do not have the true owner's name and address on both cab doors shall be issued a notice of violation

D. - D.5. Repealed.

E. - E.3.b.iv. ...

4. If any person transporting bulk gasoline is traveling on other than the approved route or not carrying the above information as required, the fine shall be:

a. - c. ...

E.5. - F.2. Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:2 et seq.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways, LR 5:26 (February 1979), amended by the Office of Weights, Measures and Standards, LR 22:120 (February 1996), amended by the Office of Operations, LR 50:

Chapter 12. Violation Ticket Review Committee

§1201. Composition of Violation Ticket Review Committee

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:389 (D).

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Weights, Measures and Standards, LR 22:372 (May 1996), amended LR 28:522 (March 2002), LR 33:863 (May 2007), repealed LR 50:

§1203. Tickets Subject to Review

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:389(D).

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Weights, Measures and Standards, LR 22:372 (May 1996), amended LR 28:522 (March 2002), repealed LR 50:

§1205. Time Limitations

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:389(D).

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Weights, Measures and Standards, LR 22:372 (May 1996), amended LR 28:522 (March 2002), repealed LR 50:

§1207. Duties of the DOTD Weights and Standards Administrator

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:389.D.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Weights, Measures and Standards, LR 22:372 (May 1996), amended LR 28:522 (March 2002), repealed LR 50:

§1209. Authorized Action

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:389.D.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Weights, Measures and Standards, LR 22:372 (May 1996), amended LR 28:523 (March 2002), repealed LR 50:

§1211. Rights of Protesting Party

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:389.D.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Weights, Measures and Standards, LR 22:372 (May 1996), amended LR 28:523 (March 2002), repealed LR 50:

§1213. Prescription

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:389.D.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Weights, Measures and Standards, LR 22:372 (May 1996), amended LR 28:523 (March 2002), repealed LR 50:

§1215. Reconsideration by Violation Ticket Review Committee

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:389.D.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Weights, Measures and Standards, LR 22:372 (May 1996), amended LR 28:523 (March 2002), repealed LR 50:

§1216. Consideration by Review Panel

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:389 (D).

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Weights, Measures and Standards, LR 22:372 (May 1996), amended LR 28:523 (March 2002), LR 33:863 (May 2007), repealed LR 50:

§1217. Record-Keeping

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:389.D.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Weights, Measures and Standards, LR 22:372 (May 1996), amended LR 28:523 (March 2002), repealed LR 50:

Chapter 13. Laws and Regulations Enforced by Other Agencies

§1301. Explosives, Flammable Liquids

A. Any interstate or international transportation of explosives, flammable liquids, or any other hazardous materials is regulated by federal laws. Contact should be made with the Federal Highway Administration, Bureau of Motor Carrier Safety.

B. Explosives. All vehicles transporting explosives intrastate in Louisiana must have a permit from the Department of Public Safety, Explosives Control Unit.

C. Liquefied Petroleum Gas and Anhydrous Ammonia

1. Any company which intends to transport liquefied petroleum gas or anhydrous ammonia over Louisiana highways must obtain a permit from the Liquefied Petroleum Gas Commission.

2. - 3. ...

D. Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:2 et seq.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways, LR 5:26 (February 1979), amended by the Office of Weights, Measures and Standards, LR 22:120 (February 1996), amended by the Office of Operations, LR 50:

§1303. Operating Authority

A. Intrastate Hauling

1. To operate intrastate in Louisiana, all common and contract for-hire carriers (except those exempt by Louisiana law) must obtain operating authority from the Louisiana Public Service Commission.

A.2. - B.1. ...

a. To operate interstate in Louisiana, common and contract for-hire carriers must first obtain operating authority from the Interstate Commerce Commission (ICC) and then file that authority with their base state.

b. Louisiana-based ICC regulated carriers must register with the LPSC, file application, liability insurance and BOC-3 and carry a copy of annual SSRS registration receipt on board each vehicle for which fees were paid.

2. Interstate Exempt

a. To operate interstate exempt in Louisiana, for-hire carriers must register by paying a \$25 one-time filing fee, file Form A-1, insurance Form E and BOC-3 and carry on board each vehicle a Louisiana "Bingo Stamp" at a cost

of \$10 each and affixed to a Uniform Cab Card. Interstate cab cards may be obtained from the LPSC or National Association of Regulatory Utility Commissioners (NARUC).

2.b. - 3.a. ...

b. Exempt carriers must have a current annual Louisiana interstate "Bingo Stamp" affixed to the back of the Uniform Cab Card in each vehicle. Annual stamp year begins on February 1 each year. Orders for the forthcoming year will be accepted beginning October 1 through January 31. Bingo stamps are \$10 each.

c. ...

4 - 4.b. Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:2 et seq.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways, LR 5:26 (February 1979), amended by the Office of Weights, Measures and Standards, LR 22:120 (February 1996), amended by the Office of Operations, LR 50:

§1399. Fee Schedule

First Overweight Permit Fee Schedule					
<p>This schedule is for three types of vehicles:</p> <ul style="list-style-type: none"> This schedule is for three types of vehicles: Vehicles and combinations of vehicles which do not exceed their legal gross weight, but do exceed the legal axle weight on one to three axles or axle groups* (including steering axles). Vehicles or combinations of vehicles which have two or three axles ** total and which exceed both their legal gross weight and legal axle weight. All two-to-four axle ** off-road equipment. 					
Excess Weight (in pounds)	Distance (in miles)				
	0-50	51-100	101-150	151-200	over 200
0-10,000	\$ 30.00	\$ 45.00	\$ 52.50	\$ 67.50	\$ 82.50
10,001-20,000	52.50	97.50	135.00	172.50	210.00
20,001-30,000	82.50	150.00	210.00	277.50	345.00
30,001-40,000	105.00	202.50	292.50	382.50	472.50
40,001-50,000	135.00	255.00	367.50	487.50	607.50
50,001-60,000	157.50	307.50	450.00	592.50	735.00
Over 60,000	\$15 plus \$0.10 per ton-mile				
*Axle groups are tandem, tridum, and quadrum axles.					
***"Axle" here refers to single or individual axles. Tandem axle groups will be counted as two axles and tridum axle groups as three axles.					

Second Overweight Permit Fee Schedule					
<p>This schedule is for combinations of vehicles with four axles* (including the steering axle).</p>					
Gross Weight (in pounds)	Distance (in miles)				
	0-50	51-100	101-150	151-200	over 200
66,001-80,000	\$30.00	\$52.50	\$ 67.50	\$ 90.00	\$ 105.00
80,001-90,000	67.50	112.50	165.00	217.50	262.50
**"Axle" here refers to single or individual axles. Tandem axle groups will be counted as two axles and tridum axle groups as three axles.					

Third Overweight Permit Fee Schedule					
<p>This schedule is for combinations of vehicles with five or more axles* (including the steering axle) when the gross weight exceeds 80,000 pounds.</p>					
Gross Weight (in pounds)	Distance (in miles)				
	0-50	51-100	101-150	151-200	over 200
80,001-100,000	\$ 45.00	\$ 67.50	\$ 97.50	\$ 120.00	\$ 150.00
100,001-108,000	75.00	142.50	202.50	270.00	330.00
108,001-120,000	105.00	195.00	285.00	375.00	465.00
120,001-132,000	135.00	255.00	375.00	495.00	622.50
132,001-152,000	180.00	337.50	502.50	667.50	832.50
152,001-172,000	232.50	442.50	660.00	877.50	1095.00
172,001-192,000	285.00	547.50	817.50	1087.50	1357.00
192,001-212,000	337.50	652.50	975.00	1297.50	1620.00
212,001-232,000	390.00	757.50	1132.50	1507.50	1875.00

Third Overweight Permit Fee Schedule					
This schedule is for combinations of vehicles with five or more axles* (including the steering axle) when the gross weight exceeds 80,000 pounds.					
Gross Weight (in pounds)	Distance (in miles)				
	0-50	51-100	101-150	151-200	over 200
232,001-254,000	442.50	862.50	1290.00	1717.50	2130.00
over 254,000	\$ 15.00—plus \$0.75 per ton-mile of weight in excess of 80,000 pounds, plus a fee for structural evaluation based on the following schedule: \$187.50—for evaluation of treated timber, concrete slab, and precast concrete slab bridges \$1,275.00—for evaluation of truss, continuous span, and movable bridges and for all Mississippi River structures \$750—for all other structures				
Price of fuel showing tax paid* "Axle" here refers to single or individual axles. Tandem axle groups will be counted as two axles and tridem axle groups as three axles.					
Notwithstanding any other provision of law to the contrary, any combination vehicle with a gross weight greater than 212,000 pounds, but not in excess of 254,000 pounds shall be authorized a maximum tandem axle weight of 45,000 pounds and a maximum steering axle weight of 13,000 pounds, provided the spread between axle groups is a minimum of 12 feet and the spread between tires in a group is a minimum of 4 feet.					

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:2 et seq.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Operations, LR 50:

Chapter 15. Guideline for Submitting Overweight Vehicle Configurations—Exceeding 232,000 Pounds

§1501. Necessary Requirements Accompanying the Permit

A. Map. Submit a map showing the proposed route and any alternate proposed routes in order of preference.

B. In the event there is one or more parallel, alternate modes of transportation that cannot accommodate the load, such as a navigable waterway of a railroad, but substantially reduces the length of haul on the state highway system, evidence of the physical and/or regulatory impasse(s) must be submitted with the permit request. This evidence must be a written response from the facility's authorities or offices stating the nature of the impasse which will not accommodate the load.

C. Statement from the owner of the load certifying its gross weight.

D. - E. Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:2 et seq.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways, LR 5:26 (February 1979), amended by the Office of Weights, Measures and Standards, LR 22:120 (February 1996), amended by the Office of Operations, LR 50:

Chapter 17. Requirements for Permitting Off-Road Equipment

§1701. Off-Road Equipment on State-Maintained Highways

A. - B. ...

C. Off-road equipment shall be considered as any self-propelled or combination vehicle adaptable to the highway environment which is not intended for normal operation on the highway due to its weight, size, and/or configuration. This equipment will also be classified as either non-critical or critical. Noncritical off-road equipment is not expected to produce excessive stresses in common highway bridges when operated. Critical off-road equipment, however, can

produce stresses in excess of the capacity of common highway bridges if its permit requirements are not carefully met.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:2 et seq.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways, LR 5:26 (February 1979), amended by the Office of Weights, Measures and Standards, LR 22:120 (February 1996), amended by the Office of Operations, LR 50:

Chapter 19. Escort Requirements for Oversize and/or Overweight Vehicles or Loads

§1901. Provision Enforcement

A. - B.7. ...

8. The driver of the escorting vehicle is responsible for the movement and shall ensure that the escorted vehicle is operated in a manner consistent with these provisions and all provisions on the permit. In the event the driver of the escorted vehicle does not, or refuses to operate in accordance with these stipulations, the driver of the escort vehicle shall terminate the movement and report this action to the proper company officials or local police authority or to the Department of Transportation and Development Weights and Standards Police Headquarters.

9. It shall be the responsibility of the driver of the escort vehicle to operate as a warning vehicle only. The driver shall not run traffic lights, fail to stop at stop signs, improperly pass, etc. His authorization to warn motorists of danger shall not imply that the vehicle is or should be used as a police and/or emergency vehicle.

10. All costs incidental to escorts shall be borne by the escort or permittee.

11. The equipment and permit required on escort vehicles shall be available for inspection on demand of proper authorities.

12. Payment for escort service shall be determined by the escort and the permittee.

13. Self or private escorts shall not escort any movement in excess of 16 feet wide on two-lane highways or multi-lane highways. Escorts must be furnished for all movements in excess of 12 feet in width or in excess of 90 feet in length and for any other movement when so designated by the Department of Transportation and Development or the Office of State Police.

14. No current full-time employee of the Department of Transportation and Development shall be used for or engage in self or private escort service. Under the existing policy of the Department of Public Safety, Office of State Police, an off-duty trooper or DPS police officer working in uniform may serve as escort for movements of oversize and/or overweight loads.

15. In the event a state police escort is required, the permittee shall pay the escort fee, or any portion thereof, in addition to pay of the off-duty trooper or DPS police officer.

16. Escorts of house movements, overweight loads when required by the Department of Transportation and Development, and other loads needing police authority during movement, shall be escorted by the Office of State Police, unless made within a city's limits where the authority may be the city police.

17. The owner and/or operator of the escort vehicle agrees to hold harmless the Department of Transportation and Development and its duly appointed agents and employees against any action for personal injury or property damage sustained by reason of the authority to escort an oversize load.

18. The Department of Transportation and Development Weights and Standards Police of the Office of State Police, will determine that proper escort procedures are complied with and shall have full authority to enforce all provisions of the permit and escort regulations. The authority to revoke the escort vehicle permit shall rest with the Department of Transportation and Development.

19. - 20. Repealed.

C. - E.1.n. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:2 et seq.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways, LR 5:26 (February 1979), amended by the Office of Weights, Measures and Standards, LR 22:120 (February 1996), LR 30:1490 (July 2004), amended by the Department of Public Safety and Corrections, Office of State Police, LR 42:1302 (August 2016), amended by the Office of Operations, LR 50:

Chapter 30. Legal Limitations

§3001. Figures

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:2 et seq.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways, LR 5:26 (February 1979), amended by the Office of Weights, Measures and Standards, LR 22:120 (February 1996).

Part III. Weights and Measures

Chapter 3. Minimum Standards for Reflectivity of Work-Site Materials

§301. Minimum Standards for Reflective Sign Sheeting

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:35.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Weights, Measures and Standards, LR 24:703 (April 1998), amended LR 26:357 (February 2000), LR 30:502 (March 2004), repealed LR 50:

§303. Minimum Standards for Striping

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:35.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Weights, Measures and Standards, LR 24:705 (April 1998), amended LR 30:504 (March 2004), repealed LR 50:

§305. Minimum Standard for Thermoplastic Pavement Markings

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:35.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Weights, Measures and Standards, LR 24:707 (April 1998), amended LR 30:506 (March 2004), repealed LR 50:

§307. Minimum Standards for Preformed Plastic Pavement Marking Tape

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:35.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Weights, Measures and Standards, LR 24:708 (April 1998), amended LR 30:507 (March 2004), repealed LR 50:

§309. Minimum Standards for Raised Pavement Markers

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:35.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Weights Measures and Standards, LR 24:709 (April 1998), amended LR 30:507 (March 2004), repealed LR 50:

Family Impact Statement

Adoption of this proposed Rule should not have any known or foreseeable adverse impact on any family as defined by R.S. 49:972(D) or on family formation, stability, and autonomy. Specifically:

1. The adoption of this proposed Rule will have no known or foreseeable effect on the stability of the family.

2. The adoption of this proposed Rule will have no known or foreseeable effect on the authority and rights of parents regarding the education and supervision of their children.

3. The adoption of this proposed Rule will have no known or foreseeable effect on the functioning of the family.

4. The adoption of this proposed Rule will have no known or foreseeable adverse effect on the family earnings and family budget.

5. The adoption of this proposed Rule will have no known or foreseeable effect on the behavior and personal responsibility of children.

6. The adoption of this proposed Rule will have no known or foreseeable effect on the ability of the family or local government to perform this function.

Poverty Impact Statement

The adoption of this proposed Rule should not have any known or foreseeable adverse impact on child, individual, or

family poverty in relation to individual or community asset development as defined by R.S. 49:973. Specifically,

1. The adoption of this proposed Rule will have no known or foreseeable adverse effect on household income, assets, and financial security.

2. The adoption of this proposed Rule will have no known or foreseeable adverse effect on early childhood development and preschool through postsecondary education development.

3. The adoption of this proposed Rule will have no known or foreseeable adverse effect on employment and workforce development.

4. The adoption of this proposed Rule will have no known or foreseeable effect on taxes and tax credits.

5. The adoption of this proposed Rule will have no known or foreseeable effect on child and dependent care, housing, health care, nutrition, transportation, and utilities assistance.

Small Business Analysis

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

Provider Impact Statement

The adoption of this proposed rule change does not have any known or foreseeable impact on a provider as defined by House Concurrent Resolution No. 170 of the 2014 Regular Session of the Louisiana State Legislature. Specifically:

1. The adoption of this proposed Rule change does not have any known or foreseeable impact on the staffing level requirements or qualifications required to provide the same level of service.

2. The adoption of this proposed Rule change does not have any known or foreseeable impact on the total direct and indirect effect on the cost to a provider to provide the same levels of service.

3. The adoption of this proposed Rule change does not have any known or foreseeable impact on the overall effect on the ability of a provider to provide the same level of service.

Public Comments

All interested persons so desiring shall submit oral or written data, views, comments, or arguments no later than 20 days from the date of publication of this Notice of Intent to Kevin Reed, Chief Maintenance Engineer, Department of Transportation and Development, P.O. Box 94245, Baton Rouge, LA 70804-9245. Telephone (225) 379-1916.

Eric Kalivoda
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: **Weights and Standards**

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

The proposed rule change will increase expenditures in the Department of Transportation and Development (DOTD) by approximately \$3.3 M to enforce the stationary scales program. Prior to the transfer from State Police to DOTD, the operating costs for the program was approximately \$6.6 M. Act 447 of the 2023 RS appropriates an additional \$3.3 M to DOTD for 32 additional positions, which would allow DOTD to expand the current stationary scales program. This appropriation is only a portion of what would be needed to grow the program back to normal operating size. To the extent that the program continues to expand and the legislature continues to appropriate additional dollars, expenditures may increase further in the out-years.

The proposed rule change does the following:

1) Transfers the responsibility for all enforcement at stationary scales from State Police to DOTD, pursuant to Act 384 of the 2021 Regular Legislative Session. 23 C.F.R. § 657.5 requires Louisiana to enforce vehicle size and weight laws. Pursuant to 23 C.F.R. § 657.19, if such laws are not enforced, the state risks losing ten percent of its federal transportation funding apportionment. This enforcement responsibility was housed in the Department of Public Safety, specifically in Louisiana State Police. Effective July 1, 2022, responsibility for all enforcement at stationary scales transferred to DOTD. Revisions are necessary to existing provisions of the Louisiana Administrative Code in order to carry DOTD's new responsibilities into effect.

2) Updates weights and standards enforcement practices, and language for overweight and oversize permits fees, and violation penalties. These fees and violation penalties are listed in various Louisiana statutes and the proposed rule change codifies the fees and fines to match current practices.

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

The proposed rule change may result in an increase in revenue collections by DOTD. The 32 new positions will increase the monitoring capabilities of the department. To the extent there are more ticketed violations due to expanded capabilities, revenues will increase accordingly. The magnitude of the increase is indeterminable at this time.

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

The proposed rule change has no anticipated economic impact to directly affected persons, small businesses, or non-governmental groups. Truckers are already required to purchase overweight and/or oversized permits to travel on Louisiana roads. The proposed rule change updates the permit fees language to match current practices, therefore there will be no impact on truckers.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed changes shall have no effect on competition and/or employment.

Barry D. Keeling
Deputy Secretary
2310#063

Patrice Thomas
Deputy Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT
Workforce Commission
Plumbing Board

Plumbing: Apprenticeship, Licensure, and Insurance
(LAC 46:LV.101, 301, 303, 305, 307, 309, 311, 508)

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:953, the State Plumbing Board (board), hereby determines that the implementation of amendments to LAC 46:LV. 101, 301, 303, 305, 307, 309, 311, 508 to comply with recent legislative changes designated as Act 152 of the 2023 Regular Session in effect August 1, 2023. These amendments provide a pathway to licensure for individuals not enrolled in an apprenticeship program approved by the Workforce Commission; a requirement that all journeyman plumbers be employed by master plumber licensed by the board; an increase in the minimum in comprehensive general liability and property damage insurance for master plumbers and master gas fitters to \$500,000; flexibility in establishing testing locations; and a five-year period for journeyman plumbers not working under the supervision of a master plumber prior to January 1, 2024 to obtain a master plumber license.

This adjustment will be effective upon final publication in the *Louisiana Register*.

Title 46
PROFESSIONAL AND OCCUPATIONAL
STANDARDS
Part LV. Plumbers

Chapter 1. Introductory Information

§101. Definitions

Apprentice Gas Fitter—a natural person engaged in learning the gas fitting trade by working under the direct on-the-job supervision of a gas fitter and in the employ of an employing entity. Apprentice gas fitters shall be indentured in an apprenticeship program approved by the Workforce Commission or may be unindentured and in the employ of an employing entity.

Apprentice Plumber—a natural person engaged in learning the plumbing trade by working under the direct on-the-job supervision of a journeyman plumber and in the employ of an employing entity. Apprentice plumbers shall be indentured in an apprenticeship program approved by the Workforce Commission or unindentured and in the employ of an employing entity.

* * *

Employing Entity Gas Fitter—as that term is used in R.S. 37:1367(B) and (C) and in these regulations, shall mean a corporation, partnership or sole proprietorship that holds itself out as engaging in the business or art of *gas fitting* as defined in this Section and who employs and designates at least one responsible master gas fitter on a regular paid basis for actual services performed by that master gas fitter supervising gas fitters.

Employing Entity Plumbing—as that term is used in R.S. 37:1367(B) and (C) and in these regulations, shall mean a corporation, partnership or sole proprietorship that holds itself out as engaging in the business or art of *plumbing* as defined in this Section and who employs and designates at least one responsible master plumber on a regular paid basis

for actual services performed by that master plumber or master plumbers supervising journeyman plumbers.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1277 and R.S. 37:1366.

HISTORICAL NOTE: Adopted by the Department of Labor, Plumbing Board, 1968, amended and promulgated by the Department of Employment and Training, Plumbing Board, LR 17:49 (January 1991), amended by the Department of Labor, Plumbing Board, LR 21:1348 (December 1995), LR 26:329 (February 2000), amended by the Workforce Commission, Plumbing Board, LR 42:575 (April 2016), LR 43:541 (March 2017), LR 43:972 (May 2017), LR 44:633 (March 2018), amended by the Workforce Commission, Plumbing Board, LR 44:1915 (October 2018), amended by the Workforce Commission, Plumbing Board, LR 47:274 (February 2021), LR 49:914 (May 2023), amended by the Workforce Commission, Plumbing Board, LR 50:

Chapter 3. Licenses

§301. Licenses Required

A. No natural person shall engage in doing the work of a journeyman plumber unless he possesses a license or renewal thereof issued by the board. A journeyman plumber may engage in the art of plumbing only when he is under the employment of a master plumber licensed by this board. Any journeyman plumber that repaired plumbing independently and without the supervision of a master plumber prior to January 1, 2024, may continue to operate in such a manner for a period of five years, and shall within that five-year period pass the master plumber examination to obtain a master plumber license.

B. No natural person shall engage in doing the work of an apprentice unless he possesses a registration or renewal thereof issued by the board as established in §508. Registered apprentices may engage in the art of plumbing only when they are under the direct, constant on-the-job supervision of a licensed plumber as defined in §101, and as governed by the Workforce Commission.

C. - Y. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1366(D).

HISTORICAL NOTE: Adopted by the Department of Labor, Plumbing Board, 1968, amended and promulgated by the Department of Employment and Training, Plumbing Board, LR 17:49 (January 1991), amended by the Department of Labor, Plumbing Board LR 19:897 (July 1993), LR 19:1593 (December 1993), LR 21:1348 (December 1995), LR 25:1857 (October 1999), amended by the Workforce Commission, Plumbing Board, LR 42:576 (April 2016), LR 43:541 (March 2017), LR 43:972 (May 2017), LR 47:274 (February 2021), LR 49:915 (May 2023), amended by the Workforce Commission, Plumbing Board, LR 50:

§303. Application for License

A. Applications for journeyman plumber license shall be completed and sworn to before a notary public by the applicant. Each applicant, shall have been registered as an apprentice with the board during the time period in which they are submitting hours of manual labor of the trade of plumbing, be qualified to take the examination without assistance, and provide whatever other information is requested, on official board application form.

B. -F. ...

G. Applications for gas fitter license shall be completed and sworn to before a notary public by the applicant. Each applicant shall have been registered as an apprentice with the board during the time in which they are submitting hours of

manual labor of the trade of gas fitting, be qualified to take the examination without assistance, and provide whatever other information is requested, on official board application form.

1.- J. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1366(D).

HISTORICAL NOTE: Adopted by the Department of Labor, Plumbing Board, 1968, amended and promulgated by the Department of Employment and Training, Plumbing Board, LR 17:50 (January 1991), amended by the Department of Labor, Plumbing Board, LR 21:1348 (December 1995), LR 26:329 (February 2000), amended by the Workforce Commission, Plumbing Board, LR 42:576 (April 2016), LR 43:542 (March 2017), LR 43:972 (May 2017), LR 49:917 (May 2023), amended by the Workforce Commission, Plumbing Board, LR 50:

§305. Requirements to Take Exam for Journeyman Plumber's License

A. Requirements

1. An applicant for journeyman plumber's examination shall be registered as an apprentice with the board and have performed 8,000 hours as an unindentured apprentice or 7,000 hours as an indentured apprentice of manual labor of plumbing under the direct, constant on-the-job supervision of a licensed plumber as defined in §101, by way of official payroll documentation or W-2's with an accompanying paycheck stub.

2. - 6. ...

B. Regular quarterly examinations will be held on such days and in such locations as set by the board. Regularly scheduled examinations are subject to postponement or relocation to accommodate legal holidays or other conditions beyond the control of the board.

C.- H. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1366(A) and (D).

HISTORICAL NOTE: Adopted by the Department of Labor, Plumbing Board, 1968, amended and promulgated LR 14:440 (July 1988), amended LR 15:1088 (December 1989), amended and repromulgated by the Department of Employment and Training, Plumbing Board, LR 17:51 (January 1991), amended by the Department of Labor, Plumbing Board, LR 24:1948 (October 1998), LR 25:1857 (October 1999), amended by the Workforce Commission, Plumbing Board, LR 42:577 (April 2016), LR 49:917 (May 2023), amended by the Workforce Commission, Plumbing Board, LR 50:

§307. Requirements to Take Exam for Gas Fitter's License

A. Requirements

1. An applicant for gas fitter's examination shall be a registered apprentice with the board and have performed 4,000 hours as an unindentured apprentice or 3,000 hours as an indentured apprentice of manual labor of gas fitting in that two-year training period under the direct, constant on-the-job supervision of a licensed gas fitter as defined in §101, by way of official payroll documentation or W-2's with an accompanying paycheck stub.

2. - 6. ...

B. Regular quarterly examinations will be held on such days and in such locations as set by the board. Regularly scheduled examinations are subject to postponement or relocation to accommodate legal holidays or other conditions beyond the control of the board.

C. - G. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1366(D).

HISTORICAL NOTE: Promulgated by the Workforce Commission, Plumbing Board, LR 43:543 (March 2017), amended LR 49:918 (May 2023), amended by the Workforce Commission, Plumbing Board, LR 50:

§309. Requirements to Take Exam for Tradesman Plumber License

A. Requirements

1. An applicant for tradesman plumber's examination shall be a registered apprentice with the board and have performed 4,000 hours as an unindentured apprentice or 3,000 hours as an indentured apprentice of manual labor of plumbing under the direct, constant, on-the-job supervision of a licensed plumber as defined in §101, by way of official payroll documentation or W-2's with an accompanying paycheck stub.

2. - 6. ...

B. Regular quarterly examinations will be held on such days and in such locations as set by the board. Regularly scheduled examinations are subject to postponement or relocation to accommodate legal holidays or other conditions beyond the control of the board.

C. - G. ...

AUTHORITY NOTE: Promulgated in accordance/ with R.S. 37:1366(D) and R.S. 37:1368(G).

HISTORICAL NOTE: Promulgated by the Workforce Commission, Plumbing Board, LR 43:973 (May 2017), amended LR 49:918 (May 2023), amended by the Workforce Commission, Plumbing Board, LR 50:

§311. Insurance Requirements for Master Plumbers and Master Gas Fitters

A. - B.2. ...

3. comprehensive general liability and property damage insurance in a minimum amount of \$500,000.

C. - F. ...

G. The board is empowered to assess special enforcement fees on a daily basis at a rate not to exceed \$10 a day relative to any master plumber, master gas fitter or employing entity, individually or collectively, that fails or refuses, after due notice, to comply with the insurance requirements for master plumbers and master gas fitters as established in this Section. The daily enforcement fees assessed by the board under this provision shall not exceed, in the aggregate, \$500. This special enforcement fee shall be in addition to any licensing fees required by law, or any other penalty or sanction assessed by a court of competent jurisdiction or by the board.

H. If an employing entity is exempt from the worker's compensation laws, as provided by applicable Louisiana law, it shall execute an affidavit of non-coverage on a form provided by the board. Failure to timely submit this affidavit may subject the employing entity to special enforcement fees under this Section of these regulations and/or an action for injunctive relief by the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1366 and R.S. 37:1377.

HISTORICAL NOTE: Adopted by the Department of Labor, Plumbing Board, 1968, amended by Department of Employment and Training, Plumbing Board, LR 17:53 (January 1991), amended LR 18:30 (January 1992), amended by the Department of Labor, Plumbing Board, LR 19:897 (July 1993), LR 25:1856 (October 1999), amended by the Workforce Commission, Plumbing Board,

LR 43:545 (March 2017), LR 43:974 (May 2017), amended by the Workforce Commission, Plumbing Board, LR 50:

Chapter 5. The Board

§508. Duties of the Board

A. The board shall recognize the system of qualification of registration of apprentices as administered by joint and nonjoint apprenticeship committees approved by the director of apprenticeship and nonregistered apprentices in the employ of an employing entity.

B. - C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1336(D).

HISTORICAL NOTE: Promulgated by the Workforce Commission, Plumbing Board, LR 43:978 (May 2017), amended by the Workforce Commission, Plumbing Board, LR 50:

Family Impact Statement

The proposed amendments to LAC 46:1001 and 1002 and the adoption of LAC rule should have no known or foreseeable impact on any family as defined by R.S. 49:972(D) or on family formation, stability and autonomy. Specifically, the implementation of this proposed rule has no known or foreseeable effect on:

1. The stability of the family.
2. The authority and rights of parents regarding the education and supervision of their children.
3. The functioning of the family.
4. Family earnings and family budget.
5. The behavior and personal responsibility of children.
6. The ability of the family or local government to perform this function.

Poverty Impact Statement

The proposed amendments to LAC 46:1001 and 1002 should have no impact on poverty as described in R.S. 49:973.

Small Business Impact Analysis

The proposed amended Rules should have no adverse impact on small businesses as defined in the Regulatory Flexibility Act.

Provider Impact Statement

The proposed amended Rules are not anticipated to have any impact on providers of services funded by the state as described in HCR 170 of the 2014 Regular Legislative Session.

Public Comments

Any interested person may submit written comments regarding the content of this proposed Rule change to Ashley Jones Tullier, Executive Director of the Board, 11304 Cloverdale Avenue, Baton Rouge, LA, no later than 5:00 p.m., November 10, 2023.

Ashley Jones Tullier
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Plumbing: Apprenticeship, Licensure, and Insurance

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

The proposed rule change is anticipated to increase Louisiana State Plumbing Board expenditures by \$1,766 (\$2.75

per registration x 642 unindentured apprentices) in FY24 and future fiscal years.

This expense is associated with an annual mailout to unindentured apprentices. The cost per person is \$2.75 for postage and materials. It is expected to be sent to 642 individuals who are not currently enrolled in an approved apprenticeship program. Therefore, the total annual cost is \$1,766 (\$2.75 x 642 individuals). The mailout will be sent in subsequent years as a notice to renew their registration.

In compliance with Act 152 of the 2023 RS, the Louisiana State Plumbing (Board) proposes to amend Chapters 1, 3 and 5 of Title 46 regarding procedures for examination, licensing, and insurance of persons subject to the Board’s jurisdiction.

Specifically, this rule:

Allows for individuals to earn a license without first being enrolled in an approved Louisiana Workforce Commission Apprenticeship program.

Requires journeyman plumbers to be employed by a master plumber licensed by the board.

Requires independent journeyman plumbers who have worked without the supervision of a master plumber prior to January 1, 2024 to obtain a master plumber license within a five-year period.

Requires applicants for a journeyman plumber or gas fitter license be registered as an apprentice.

Establishes exam requirements for journeyman plumber license exam, gas fitter license exam, and the tradesman plumber license exam.

Requires a minimum \$500,000 in comprehensive general liability and property damage insurance for master plumbers and master gas fitters.

Allows for flexibility in establishing testing locations.

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

The proposed rule provides that unindentured apprentices shall be registered with the board. The initial registration fee is \$20 with a \$10 renewal fee in subsequent years. Therefore, the proposed rule change is anticipated to increase the Louisiana State Plumbing Board’s revenue by \$12,840 (\$20 application fee x 642 anticipated applicants) in FY24 and \$6,420 (\$10 renewal fee x 642 individuals) in subsequent years.

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

The proposed rule requires unindentured apprentices to register with the Board and renew their registration annually. Unindentured apprentices will incur an initial cost of \$20 for a one-time registration fee and a \$10 renewal fee in subsequent years.

The rule requires a minimum \$500,000 in comprehensive general liability and property damage insurance for master plumbers and master gas fitters; therefore, master plumbers and gas fitters may incur increased insurance premiums associated with the required minimum liability coverage increasing from \$100,000 to \$500,000.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

Being an apprentice registered by the board could potentially increase the level of responsibility given by employers which may increase the earning potential of the apprentice.

Julie Richard Spencer
Board Attorney
2310#064

Patrice Thomas
Deputy Fiscal Officer
Legislative Fiscal Office

Administrative Code Update

CUMULATIVE: JAN-SEPT 2023

LAC Title	Part #.Section #	Action	Location: Month	Page #	LAC Title	Part #.Section #	Action	Location: Month	Page #	
4	V.1501,1502,1503,1504,1505,1506,1507,1508	Amended	June	1012	28	CXV.2318	Amended	May	861	
	V.1509,1510	Amended	June	1012		CXV.2319,3305,3503	Repromulgated	May	851	
7	XXI.101,103,751	Amended	Feb.	236	CXV.2345,2353	Amended	Aug.	1374		
	XXI.701,752	Adopted	Feb.	236	CXV.3305	Amended	Feb.	245		
	XXI.1705	Amended	Feb.	234	CXV.3501	Adopted	Jan.	035		
	XXI.1727,1729,1731,1733,1735,1737	Adopted	Feb.	234	CXV.3503	Adopted	Feb.	245		
	XXIII.1103	Amended	Apr.	641	CXV.3601,3603,3605,3607,3609	Adopted	Apr.	647		
10	XV.1901,1905,1913,1917,1923,1927,1931	Amended	Feb.	259	CXV.3703	Amended	Apr.	647		
	XV.1903,1907,1909,1919,1921,1925	Repealed	Feb.	259	CXXIX.303,507,511,513,515,527,531,535	Amended	Jan.	036		
	XV.1929,1933,1935,1937	Repromulgated	Feb.	259	CXXIX.1341	Amended	Jan.	040		
13	I.1101,1103,1105,1107,1109,1111,1117,1121	Amended	Jan.	025	CXXXI.528	Adopted	Feb.	255		
	I.1101,1103,1105,1107,1109,1111,1117,1118	Repromulgated	Feb.	338	CXXXI.553	Amended	Aug.	1375		
	I.1118,1120	Adopted	Jan.	025	CXXXI.715	Amended	May	863		
	I.1119	Repromulgated	Jan.	025	CXXXIX.2721	Adopted	Apr.	647		
	I.1119,1120,1121,1123	Repromulgated	Feb.	338	CXXXIX.4305	Amended	Feb.	245		
	I.1123	Amended	Jan.	025	CXXXIX.4305	Repromulgated	May	851		
	I.4901,4903,4905,4907,4909,4911,4913	Adopted	May	849	CXLVII.105,301	Amended	Apr.	649		
	I.5101,5103,5105,5107,5109,5111,5113	Adopted	June	1032	CXLVII.305	Amended	Feb.	245		
					CXLVII.305	Repromulgated	May	851		
					CLXV.103,309,311,313	Amended	July	1207		
17	I.103,107	Amended	June	1141	CLXI.103,1901	Amended	July	1207		
	I.103,107	Repromulgated	Aug.	1447	CLXI.1515,1725	Amended	May	862		
	I.107,115	Amended	June	1129	CLXI.1723	Amended	Jan.	032		
	I.117	Adopted	June	1129						
19	III.2501,2503,2505,2507	Adopted	June	1029	32	III.107	Amended	Aug.	1376	
					V.205,305,505	Amended	Aug.	1376		
22	I.201,203,205	Amended	Mar.	495	33	III.223	Amended	May	863	
	I.313	Amended	Mar.	502		III.3101	Adopted	Aug.	1375	
	I.316	Amended	June	1110	V.4999	Amended	Jan.	058		
	III.4509,5501	Amended	May	921	V.30105,30117,30258,30260,30402,30420	Amended	June	1089		
	III.4761	Amended	Apr.	654	V.30125,30167,30193,30266,30302,30306	Amended	May	902		
	XI.307,504,510,705	Amended	Feb.	256	V.30122,30417,30418,30419	Adopted	June	1089		
	XIII.301,303,503	Amended	May	922	V.30260,30418,30420	Repromulgated	July	1224		
					V.30452,	Amended	June	1089		
				IX.1109,1113,1123	Amended	Sept.	1552			
28	I.305,1103	Amended	Feb.	241	XV.503,542,544,545,551,577,732,762,763	Amended	Jan.	060		
	IV.509,703,705,803,805,2103	Amended	Jan.	045	XV.1508,1519,1599,1609,1613,1623,1739	Amended	Jan.	060		
	IV.2103	Amended	July	1211	XV.2022	Amended	Jan.	060		
	IV.2401,2403,2405,2407,2409,2411,2413	Adopted	Jan.	045	34	III.131	Amended	Feb.	258	
	VI.311	Amended	Jan.	058	35	III.5705,5706,5745,5764	Amended	May	866	
	VI.311,315,507	Amended	Sept.	1551		III.5740,5742,5756,5758,5760,5762,5771,5772	Amended	May	866	
	XI.301,307,601,709,3901,3903,4001,5107	Amended	Jan.	042		III.5773,5775,5777,5779,5781,5783,5785,5787	Amended	May	866	
	XI.301,307,601,709,3901,3903,4001,5107,5701	Amended	Apr.	644		III.5789,5791,5793	Amended	May	866	
	XI.405	Amended	Jan.	031		V.6335,7907	Amended	July	1213	
	XI.3503	Amended	Feb.	242		XV.12342	Adopted	May	870	
	XI.5701	Amended	Jan.	042		XV.12345	Amended	May	870	
	XI.6401,6403,6405	Adopted	Jan.	042		37	VIII.14301,14303,14305,14307,14309,14311	Repealed	Jan.	070
	XI.6401,6403,6405	Amended	Apr.	644			VIII.14313,14315,14317	Repealed	Jan.	070
	XI.6803	Amended	May	861			XIII.128	Adopted	Mar.	488
	XXXV.103	Amended	Feb.	245	XIII.129		Amended	Mar.	488	
	XXXV.103	Repromulgated	May	851	XIII.1101,1103,1105,1107,1109,1111,1113		Amended	Feb.	267	
	XXXIX.700	Amended	Feb.	245	XIII.1109		Repromulgated	Mar.	490	
	XXXIX.700	Repromulgated	May	851	XIII.1115,1117,1121,1131,1135		Amended	Feb.	267	
	XXXIX.705	Amended	Feb.	244	XIII.3105,3113,3115,3119,3121,3123,3125		Amended	Mar.	490	
	XLV.743,745	Amended	Jan.	041	XIII.3127,3141,3145		Amended	Mar.	490	
	XLV.743,745	Amended	Feb.	245	XIII.6209		Amended	May	898	
	XLV.743,745	Repromulgated	May	851	XIII.16101	Amended	Aug.	1410		
	XLV.745	Amended	Feb.	255	XIII.18201,18202,18203,18204,18205,18206	Adopted	Apr.	698		
	LXXIX.119,901	Amended	Jan.	035	XIII.18901,18903,18905,18907,18909,18911	Adopted	Feb.	270		
	LXXIX.907	Adopted	Jan.	035	XIII.18903,18905,18915,18927,18929	Amended	June	1088		
	LXXIX.1311,2120	Adopted	Feb.	245	XIII.18913,18915,18917,18919,18921,18923	Adopted	Feb.	270		
	LXXIX.1311,2120	Repromulgated	May	851	XIII.18925,18927,18929,18931,18935,18937	Adopted	Feb.	270		
	LXXIX.2109,2111,2317,2323	Amended	Apr.	642	XIII.18930	Adopted	June	1088		
LXXIX.2111	Amended	May	861	XIII.18939,18941	Adopted	Feb.	270			
LXXIX.2317,2323	Amended	Aug.	1374	XIII.19101,19103,19105,19107,19109,19111	Adopted	Mar.	493			
XC VII.505	Amended	Jan.	041	XIII.19113,19115,19117,19119	Adopted	Mar.	493			
CI.305,703,725	Amended	July	1210	XIII.19301,19303,19305,19307,19309,19311	Adopted	Aug.	1411			
CXIII.903,1701,2305	Amended	Feb.	243	XIII.19501,19503,19505,19507,19509,19511	Adopted	May	900			
CXV.325,337,517,901,1303,2305,2307,2319	Amended	Feb.	245	XIII.19513,19515,19517,19519,19521,19523	Adopted	May	900			
CXV.325,337,517,901,915,1303,2305,2307	Repromulgated	May	851	XIII.19525,19527	Adopted	May	900			
CXV.332	Adopted	Jan.	033	40	I.2001,2003,2005,2007,2009,2011,2019,2021	Amended	Mar.	515		
CXV.332,337,1103	Amended	Jan.	032		I.2111,2311,2315,2317,2319,2321,2323,2325	Amended	Mar.	515		
CXV.719	Amended	Feb.	244							
CXV.905	Amended	Apr.	647							
CXV.1104	Adopted	Jan.	032							
CXV.2318,2319,2345,2353	Amended	Apr.	642							

LAC Title	Part #.Section #	Action	Location:		LAC Title	Part #.Section #	Action	Location:	
			Month	Page #				Month	Page #
42	XI.2411,2413	Amended	Jan.	072	46	LXXXV.1115,1117,1119,1121,1123	Repealed	Apr.	640
43	XI.101,3501,3907,4309					LXXXIX.501,509	Amended	Apr.	701
	XI.103,301,303,305,307,309,311,313,315,501	Promulgated	Feb.	276		LV.101,301,303,304,305,306,307,308,309,310	Amended	May	914
	XI.305,307,503,509,513,903,1103,3301,3501	Amended	May	902	48	LV.312,313,314,503,701,901	Amended	May	914
	XI.3503,3505,3901,3903,3905,4101,4103,4105	Amended	May	902		I.401	Adopted	July	1223
	XI.4107,4109,4313,4319,4321,4327,4519,4525	Amended	May	902		I.4001,4007	Amended	Feb.	262
	XI.4557,4909,4919,4937,4945,5901,5903,6101	Amended	May	902		I.4001	Amended	Sept.	1559
	XI.4939,4941	Repealed	May	902		I.4601,4603,4611,4613,4619,4621,4623,4627	Amended	July	1215
	XI.503,505,507,509,511,513,701,901,903,1101	Repromulgated	Feb.	276		I.4629,4643,4651	Amended	July	1215
	XI.1103,1501,1503,1505,1701,1703,1705,1707	Repromulgated	Feb.	276		I.6001,6003,6005,6007,6009,6011,6013,6015	Amended	May	879
	XI.1901,1903,1905,2101,2103,2301,2303,2305	Repromulgated	Feb.	276		I.6017,6025,6029,6031,6033,6061,6063,6065	Adopted	May	879
	XI.2307,2701,2703,2901,2903,2905,2907,2909	Repromulgated	Feb.	276		I.6019,6021,6023,6027,6041,6043,6045,6047	Amended	May	879
	XI.2911,2913,3301,3501,3503,3505,3901,3903	Repromulgated	Feb.	276		I.6049,6051,6053	Amended	May	879
	XI.3905,3907,3909,3911,3913,3915,4101,4103	Repromulgated	Feb.	276		I.6071	Adopted	May	879
	XI.4105,4107,4109,4301,4303,4305,4307,4309	Repromulgated	Feb.	276		I.6703,6705,6709,6715,6717,6735,6743,6745	Amended	Mar.	481
	XI.4311,4313,4315,4317,4319,4321,4323,4325	Repromulgated	Feb.	276		I.6747,6751,6757,6759,6767,6769,6773,6781	Amended	Mar.	481
	XI.4327,4329,4331,4333,4335,4337,4339,4341	Repromulgated	Feb.	276		I.6793,6795	Amended	Mar.	481
	XI.4501,4503,4507,4509,4511,4513,4515,4517	Repromulgated	Feb.	276		I.6803,6807,6809,6813,6843	Amended	Jan.	068
	XI.4521,4523,4525,4527,4529,4531,4533,4535	Repromulgated	Feb.	276		I.9301,9303,9311	Amended	July	1220
	XI.4537,4539,4541,4543,4545,4547,4549,4551	Repromulgated	Feb.	276		I.9305	Amended	June	1074
	XI.4553,4555,4557,4559,4701,4703,4705,4707	Repromulgated	Feb.	276		I.9310	Adopted	July	1220
	XI.4709,4711,4901,4903,4905,4907,4909,4911	Repromulgated	Feb.	276		I.9701,9727,9761,9767,9911	Amended	July	1075
	XI.4713,4915,4917,4919,4921,4923,4925,4927	Repromulgated	Feb.	276		I.10080,10081,10082,10083,10084,10085	Amended	Apr.	690
	XI.4929,4931,4933,4935,4937,4949,4941,4943	Repromulgated	Feb.	276		I.10086,10087,10088,10089,10090	Amended	Apr.	690
XI.4945,5101,5103,5105,5107,5109,5301,5303	Repromulgated	Feb.	276	I.10091		Adopted	Apr.	690	
XI.5305,5501,5503,5505,5507,5509,5511,5513	Repromulgated	Feb.	276	I.19123		Adopted	Feb.	266	
XI.5515,5517,5519,5701,5703,5705,5901,5903	Repromulgated	Feb.	276	V.4101,4103,4301,4303,4305,4307,4309,4503	Amended	Aug.	1399		
XI.6101,6103,6301,6501,6503	Repromulgated	Feb.	276	V.4505,4507,4509,4511	Amended	Aug.	1399		
XIII.301,303,307,315,317,323,329,503,508,513	Amended	June	1089	50	I.2101,2105	Amended	Apr.	682	
XIII.508,2945	Repromulgated	July	1224		I.2103	Amended	June	1066	
XIII.518,921,1110,1113,1139,2715,2717,2719	Amended	June	1089		I.3113	Adopted	Feb.	264	
XIII.2710,2734,2735,2736	Adopted	June	1089		I.3113	Amended	Sept.	1565	
XIII.2945,3335,3515	Amended	June	1089		III.701	Amended	Aug.	1389	
XIX.301,303,311,313,501,519,565	Amended	May	910		III.2331	Amended	July	1222	
XIX.317	Amended	Jan.	071		III.2525	Amended	Aug.	1394	
46	I.1103	Amended	June		1033	III.10705	Amended	May	876
	I.1111	Adopted	June		1033	III.10705	Amended	July	1223
	V.709	Amended	July		1212	III.10705	Repromulgated	Aug.	1394
	XIX.101,319,501,503,505,703,705,903,1105	Amended	Apr.		650	V.119	Adopted	Mar.	487
	XIX.503,1707,1901	Repromulgated	May		864	V.907,969	Adopted	Aug.	1390
	XIX.1107,1301,1501,1700,1703,1901,1909	Amended	Apr.		650	V.953,955,959	Amended	Aug.	1390
	XIX.2301	Adopted	Apr.		650	V.957	Repealed	Aug.	1390
	XXXIII.103,306,706,710	Amended	Jan.		065	V.1301,1303	Amended	Jan.	070
	XXXIII.122,301,1509,1709	Amended	Aug.		1382	V.2101,2103	Adopted	Feb.	263
	LIII.508,906	Adopted	Jan.		066	V.2301	Adopted	July	1221
	LIII.709,907	Amended	Sept.		1558	V.2401,2403	Adopted	Sept.	1565
	LIII.1103,3003,3005	Amended	Sept.		1556	V.7501,7503	Adopted	Feb.	265
	LIII.1135	Amended	Sept.		1557	VII.32903,32904,32905,32907,32909,32913	Amended	Apr.	687
	LIII.2301,2303,2305,2307,2309,2311,2317	Amended	Apr.		679	VII.32965,32967,32969	Amended	Apr.	687
	LIII.2319	Amended	Apr.		679	IX.1101,1103,1105,15106	Adopted	June	1086
	LIII.2523	Amended	Jan.		067	IX.1301,1303,1305	Adopted	Sept.	1566
	LIII.2535	Amended	Jan.	066	XI.10703	Amended	July	1214	
	LIII.2735,2747	Amended	Apr.	681	XIII.101,103	Amended	May	875	
	LIII.2745	Amended	Sept.	1555	XIII.104	Repealed	May	845	
	LX.901	Amended	June	1087	XIII.801	Adopted	May	845	
	LX.3309,3311	Amended	June	1086	XV.4305,4309	Amended	July	1219	
	LXI.105,1505,2101	Amended	Feb.	335	XV.6905	Amended	July	1214	
	LXI.729	Adopted	Sept.	1567	XV.7321	Amended	Feb.	262	
	LXI.1527	Repealed	Feb.	335	XV.9501,9503,9505,9511,9515,9521,9525	Amended	Aug.	1383	
	LXI.2907	Amended	Sept.	1567	XV.9507	Adopted	Aug.	1383	
	LXIII.100,108,702,1401,1403,1405,1407,1409	Adopted	Apr.	671	XV.9531,9533,9535,9541	Repealed	Aug.	1383	
	LXIII.601,603,803,805,811,3402,3403,400,	Amended	Apr.	665	XV.10704	Adopted	Apr.	698	
	LXIII.601,1101,1103	Amended	Apr.	668	XV.12901,12903	Amended	May	878	
	LXIII.601,603,803,805,806,811,905,3402,3403	Repromulgated	May	871	XV.12917	Amended	Apr.	696	
	LXIII.102,103,201,303,305,701,705,709,1002	Amended	Apr.	671	XV.12921	Adopted	Apr.	696	
	LXIII.806,905	Adopted	Apr.	665	XXI.553	Adopted	Apr.	685	
	LXIII.1100,1105,1107,1109	Adopted	Apr.	668	XXI.2301	Amended	Mar.	485	
	LXIII.1201,1205,1213,1701,1702,1705,1903	Amended	Apr.	671	XXI.1101,1103,1105,1107,1109,1115,1117	Adopted	Sept.	1559	
	LXIII.1905	Adopted	Apr.	671	XXI.1119,1121,1123,1129,1131,1133,1135	Adopted	Sept.	1559	
	LXIII.4001	Repromulgated	May	871	XXI.1137,1139,1141,1143,1145,,1147	Adopted	Sept.	1559	
	LXIII.4201	Amended	Apr.	657	XXI.2901	Adopted	Apr.	683	
	LXIII.4203,4205,4207,4209,4211	Adopted	Apr.	657	XXI.6101	Amended	June	1072	
	LXVII.501,507,901,907,1507,3101,5307	Amended	Apr.	655	XXI.8107	Amended	June	1068	
	LXVII.3515	Amended	May	874	XXI.8307,8317,9501	Amended	Mar.	486	
	LXVII.4101,4105,4111,4113	Amended	Mar.	481	XXI.8331	Adopted	Mar.	486	
	LXVII.4103,4107,4109	Repealed	Mar.	481	XXI.9503	Adopted	Apr.	684	
LXVII.4501,4503,4505,4507,4511,4513,4515	Repealed	Apr.	655	XXI.12101	Amended	June	1067		
LXVII.5319,5505	Amended	Apr.	655	XXI.14301	Amended	June	1069		
LXXXV.101,105	Amended	Aug.	1373	XXI.16903	Amended	June	1071		
LXXXV.307,700,702,714	Amended	Apr.	640	XXI.16905	Adopted	June	1071		
LXXXV.1101,1103,1105,1107,1109,1111,1113	Repealed	Apr.	640	XXV.701	Amended	July	1213		

LAC Title	Part #.Section #	Action	Location:		LAC Title	Part #.Section #	Action	Location:	
			Month	Page #				Month	Page #
50	XXVII.505,517	Amended	May	877	67	V.1103	Amended	June	1028
	XXVII.531	Adopted	May	877		V.6955,7107,7311,7507,7511	Amended	May	847
	XXIX.949	Amended	Aug.	1395		VII.302,304,306,308	Adopted	Aug.	1395
	XXXIII.503,703	Adopted	July	1218		VII.303,305,307,309	Amended	Aug.	1395
52	I.1319	Adopted	June	1029	70	VII.311,313,315,317,319,321,323,325,327,329	Repealed	Aug.	1395
	I.1703	Amended	July	1207		VII.331,333	Repealed	Aug.	1395
	I.2001,2003	Amended	June	1028		IX.101,301,303,305,307,309,311,313,315,317	Amended	Aug.	1413
55	III.108	Amended	June	1122	70	IX.319,321,323,325,327,329,331,333,335,339	Amended	Aug.	1413
	III.398	Adopted	Aug.	1412		IX.337,501,503,505,507,509,511,513,701	Adopted	Aug.	1413
	III.1503,1505,1507,1509,1511,1515,1517,1521	Amended	July	1229	71	XI.101	Amended	Sept.	1567
	III.1527	Amended	July	1229		XXXI.101	Adopted	Aug.	1445
	III.1601,1603,1605,1607,1609,1611,1613,1615	Repromulgated	Feb.	330	71	III.2501,2503,,2505,2507	Adopted	Feb.	337
	III.1601,1603,1605,1607,1609,1611,1621,1623	Amended	June	1122		73	I.2101,2103,2105,2107,2111	Adopted	Aug.
	III.1608,1613,1615,1617,1619,1639,1641	Adopted	June	1122	76		I.301	Amended	July
	III.1625,1627,1629,1631,1633,1635,1637	Amended	June	1122		I.303,317,323,325,329,335,407,501	Repealed	Mar.	511
III.1617,1619,1621,1623,1625,1627	Repromulgated	Feb.	330	I.328	Adopted	Apr.	704		
56	III.2101,2103,2105,2107,2109,2111,2113,2115	Amended	Aug.	1433	I.331,333	Amended	Mar.	511	
	61	I.1909	Amended	Jan.	073	I.901,903,905,907,909	Adopted	Mar.	506
I.1923		Adopted	Feb.	334	III.111	Amended	June	1183	
I.5105		Adopted	Feb.	333	V.111	Amended	Sept.	1569	
III.2301		Adopted	Jan.	074	V.113	Amended	Mar.	511	
III.2501,2503,2505,2507		Amended	Apr.	701	V.113	Amended	Sept.	1568	
V.103,203,211,213,303,304,307,703,705		Amended	June	1034	VII.114	Amended	June	1144	
V.901,903,905,907		Amended	June	1034	VII.161,341,365,403,515,525	Amended	Mar.	511	
V.1001,1003,1005,1007,1103		Adopted	June	1034	VII.307	Amended	Mar.	514	
V.1503,2501,2503,3101,3103,3507		Amended	June	1034	VII.308	Adopted	Jan.	076	
67		I.205	Amended	Feb.	240	VII.327	Amended	Apr.	703
	III.2103	Amended	May	912	XI.309	Amended	June	1142	
	III.5532	Adopted	May	847	XIX.101,103,111,113,115,117	Amended	July	1231	

Potpourri

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Department of Agriculture and Forestry Office of Animal Health Services

Letter of Authorization Granting Hunting Season Variance

August 15, 2023

Pursuant to LAC 7: XXI.1719(A), farm-raised white-tailed deer may be harvested by killing from October 1 through January 31. LAC 7:XXI.1719(C) authorizes the Commissioner of Agriculture and Forestry to establish, by written order, variances of these dates as the commissioner deems necessary to carry out the purposes of R.S. 3:3101-3108.

In light of the foregoing, and in consideration of its application for a variance, Commissioner of Agriculture and Forestry, Mike Strain, DVM hereby authorizes:

Blackhawk Farms, LLC, License No. 1010/1011,
6978 Hwy 15, Vidalia, LA 71373,
through its owner, Joshua McCoy

to open its hunting grounds for the purpose of harvesting farm-raised white-tailed deer from September 1, 2023, until September 30, 2023.

This notice will be published in the next issue of the *Louisiana Register*, in accordance with LAC 7:XXI.1719(C).

Mike Strain, D.V.M.
Commissioner

2310#009

POTPOURRI

Department of Agriculture and Forestry Office of Animal Health Services

Letter of Authorization Granting Hunting Season Variance

September 6, 2023

Pursuant to LAC 7: XXI.1719(A), farm-raised white-tailed deer may be harvested by killing from October 1 through January 31. LAC 7:XXI.1719(C) authorizes the Commissioner of Agriculture and Forestry to establish, by written order, variances of these dates as the commissioner deems necessary to carry out the purposes of R.S. 3:3101-3108.

In light of the foregoing, and in consideration of its application for a variance, Commissioner of Agriculture and Forestry, Mike Strain, DVM hereby authorizes:

Old Mill Creek Hunting Club, LLC, License No. 2082
599 Timothy Church Rd, Springhill, LA 71075,
through its owner, Daniel Thomas

to open its hunting grounds for the purpose of harvesting farm-raised white-tailed deer from September 1, 2023, until September 30, 2023.

This notice will be published in the next issue of the *Louisiana Register*, in accordance with LAC 7:XXI.1719(C).

Mike Strain, D.V.M.
Commissioner

2310#009

POTPOURRI

Board of Elementary and Secondary Education

Bulletin 741—Louisiana Handbook for School Administrators (LAC 28: CXV.717, 2321, and 2322)

On June 14, 2023, the State Board of Elementary and Secondary Education (BESE) approved, as a Notice of Intent, revisions to *Bulletin 741, Louisiana Handbook for School Administrators*: §717. Reports of High School Credit, §2321. Appeals and Eligibility Requirements, and §2322. Senior Projects. This Notice of Intent was published on pages 1299-1303 of the July 20, 2023, issue of the *Louisiana Register*.

In accordance with Section 961 of Title 49 of the Louisiana Revised Statutes, there is hereby submitted by BESE a revised fiscal and economic impact statement on the rule proposed for adoption, repeal or amendment.

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Bulletin 741—Louisiana Handbook for School Administrators

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

The proposed rule change is anticipated to increase costs within the Louisiana Department of Education (LDE) related to the creation of a rubric for each subject area of the portfolio of work as well as to the review of audits.

The proposed change creates an appeals process for certain students who do not meet current graduation requirements. Louisiana is the one of eight states in the country which has high stakes testing for graduation, but it is the only state in the country which does not have an alternative method for appeals in order for students to demonstrate proficiency in the content being assessed. The proposed appeal process creates a rigorous evaluation method in which, during a student's senior year, a student who fails to achieve a "passing" score on the end-of-course exam in a testing pair may demonstrate proficiency using a portfolio. All students will still be required to take all state assessments. The change will allow for an appeals process for purposes of graduation only.

Per LA R.S. 17:24.4, standards-based assessments in English language arts, mathematics, science, and social studies based on state content standards and rigorous student achievement standards set with reference to test scores of

students of the same grade level nationally shall be implemented by the State Board of Elementary and Secondary Education. Such tests shall be administered, at a minimum, in grades three through eleven. Further, the statute states, F(1)(j)(3)(a), that, “in lieu of the standards-based assessments prescribed in Subparagraphs (1)(c) and (d) of this Subsection, an alternate assessment shall be provided for and administered only to those students with disabilities who meet specific eligibility criteria developed by the state Department of Education (LDE) and approved by the State Board of Elementary and Secondary Education (BESE). A determination of whether any student meets the eligibility criteria established by the state Department of Education shall be made by the student’s Individualized Education Program committee and shall be so noted on that student’s Individualized Education Program.” This rule change does not allow for an alternate assessment, waiver of policy, or an alternate pathway for graduation. It simply institutes an appeals process for students in order to satisfy the graduation requirement via the portfolio by demonstrating proficiency in that regard, as opposed to achieving a certain score on standardized tests. Achieving a specific score on course assessments is not currently outlined in policy, but rather, the test must be administered to all students, excluding special education students, and scores are averaged into a student’s course grade. This process will not allow for a course grade to be altered in any way.

Additionally, the student must provide evidence of employability by earning a silver or better on the WorkKeys assessment, earning a TOPS Tech award, or earning an approved Louisiana Jump Start Industry Based Credential. Students who have not met the approved Carnegie unit requirements for the TOPS University or TOPS Tech Career Diplomas are not eligible for an appeal. Approval of the appeal is made by the School Building Level Committee (SBLC) and the local education agency (LEA) leader. School sites who exceed an appeal rate of 3% of a graduating cohort are subject to an audit by LDE.

LDE reports the development of rubrics to assess mastery of standards in each subject through a portfolio of entries would require the work of Teacher Leader Advisors (TLAs), who complete tasks in areas of expertise through contracts for different types of deliverables. Based on LDE estimates, it could cost approximately \$76,600 for the project management and the TLA contracts to develop items for each standard. Internal review of the items would be absorbed by existing staff. LDE further reports the auditing of schools outside of the 3% limit would require an additional Education Program Consultant 3 position. Beginning in FY 24, the cost for this position would be \$119,503.19 (\$104,414.50 salary and \$15,088.69 related benefits). Finally, LDE reports scoring of portfolios during the year subsequent to audit findings of a school with more than the allowable number of diplomas issued would require the work of contracted reviewers and is estimated at \$150 per review (in this case, per subject) based on similar work. This total cost would depend on the number of portfolios submitted during the year following the finding of discrepancies in appeals process implementation.

The already established School Building Level Committee (SBLC) and the Local Education Agency (LEA) head, will score portfolios with a standardized rubric, which will be subject to an annual audit. The SBLC is currently doing much of this work; therefore, the proposed rule change should not increase costs for the local school districts.

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

The proposed rule change will not have an effect on revenue collections of state or local governmental units.

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

The proposed rule change will benefit certain high school seniors by allowing students to graduate via an alternate portfolio approach. Some students may graduate on time despite not meeting the LEAP 2025 assessment requirements for graduation. In years prior to COVID, approximately 5% to 7% of public-school students did not meet graduation requirements. This policy change will allow these students to demonstrate the fulfillment of the same course proficiency standards as currently proven via standardized assessments, through an appeal in which the portfolio will serve as a substitute in verifying course competency.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

Data from the US Bureau of Labor Statistics reveals that 41.9% of high school dropouts are engaged in work or looking for work compared to 69.2% of high school graduates. Data on high school graduates in Texas who utilized the state's appeal process show they have employment rates that are statistically indistinguishable from national data on high school graduates. The assumption is that Louisiana can expect similar results for students who graduate using this new appeals process. The median weekly wage of a high school dropout is \$626 compared to \$809 for an individual with a high school diploma. Additionally, because the appeal has an employability component, we can expect a greater number of students graduating with an industry-based credential that is aligned with regional and statewide workforce needs.

Shan Davis
Executive Director
2310#051

Patrice Thomas
Deputy Fiscal Officer
Legislative Fiscal Office

Shan N. Davis
Executive Director

2310#034

POTPOURRI

**Department of Environmental Quality
Office of the Secretary
Legal Affairs and Criminal Investigations Division**

Public Hearing Rescheduled on AQ392 and WQ112

On September 28, 2023, a public hearing was held on proposed rules AQ392 and WQ112. Due to technical difficulties experienced during the hearing, the secretary has decided to hold a second public hearing on both proposed rules on October 26, 2023. (2310Pot1)

A public hearing will be held via Zoom on October 26, 2023, at 1:30 p.m. Interested persons are invited to attend and submit oral comments via PC, Mac, Linux, iOS or Android at

<https://deqlouisiana.zoom.us/j/89059890189?pwd=T0pGeGFjV3lZM0JYOGVPaUVQS2x0UT09>,
password 545561 or
by telephone (636) 651-3182
using the conference code 725573.

Should individuals with a disability need an accommodation in order to participate, contact William Little at the address given below or at (225) 219-3985.

The comment period for AQ392 and WQ112 will end no later than October 26, 2023, at 4:30 p.m. Comments should be sent to William Little, Attorney Supervisor, Office of the Secretary, Legal Affairs and Criminal Investigations Division, P.O. Box 4302, Baton Rouge, LA 70821-4302, fax (225) 219-4068, or by E-mail to DEQ.Reg.Dev.Comments@la.gov. Copies of these proposed regulations can be purchased by contacting the LDEQ Public Records Center at (225) 219-3168.

Courtney J. Burdette
Executive Counsel

2310#027

POTPOURRI

Department of Health Office of Public Health Bureau of Emergency Medical Services and

Emergency Medical Services Certification Commission

Public Hearing—Substantive Changes to Proposed Rule:
Emergency Medical Services Professionals
(LAC 46:XXXVIII.Chapters 1-5)

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Health, Office of Public Health, Bureau of Emergency Medical Services (LDH-OPH-Bureau of EMS) and the Louisiana Emergency Medical Services Certification Commission (EMSCC) published a Notice of Intent in the May 20, 2023 edition of the *Louisiana Register* to amend LAC 46:XXXVIII.Chapters 1-5 regarding emergency medical services professionals as authorized by R.S. 40:1131-1133.16 and R.S. 40:1141. This potpourri includes additional substantive and technical changes to LAC 46:XXXVIII Chapter 3, §§301-307, Chapter 5, §§501, 505, 511-513.

In compliance with Act 31 of the 2020 Second Extraordinary Session of the Louisiana Legislature, the LDH-OPH-BEMS and the EMSCC propose to amend the regulations governing the professional and occupational standards for emergency medical services professionals in order to: 1) clarify and align these provisions with the corresponding legislative authorities governing emergency medical services; 2) ensure that the provisions are consistent with the standard language used in other healthcare licensing regulations; and, 3) promulgate the provisions clearly and concisely in the *Louisiana Administrative Code*.

Part XXXVIII is proposed to be substantively rearranged as regards to the location of the bulk of the text content which exists in some particular Sections of the current rule housed within Title 46 of the Louisiana Administrative Code (LAC) but which is now proposed to be moved into another Section of the proposed rule. The text content of each Section which has been moved does contain one or more amendments within the proposed new location. In addition, currently existing headings labeled as a particular Subpart, a particular Chapter and a particular Subchapter are proposed to be repealed. For this reason, the table below summarizes the proposed rearrangement of the text content and which specific items are proposed to be repealed.

This Potpourri announces substantive changes to the provisions proposed in the May 20, 2023 Notice of Intent. Taken together, all of these revisions to the May 20, 2023 Notice of Intent will closely align the proposed Rule with the department's original intent and address the concerns brought forth during subsequent discussions with stakeholders relative to the Notice of Intent as originally published.

Title 46 PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part XXXVIII. Emergency Medical Practitioners

Subpart 1. Rules or Procedure

Chapter 3. Licensure and Certification

§301. State Licensure and National Certification

A. - G. ...

H. Each license holder and each applicant for licensure must provide both a valid current mailing and email address at which the licensee or applicant can receive correspondence and official notices from the bureau. A licensee or applicant shall update either such address via the EMS information management system within five calendar days of any change thereto.

I. - K. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1131.1(E), R.S. 40:1131.1(A), R.S. 40:1133.5(9), R.S. 40:1133.6, R.S. 40:1141, and R.S. 40:2017.10.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Emergency Medical Services Certification Commission, LR 29:1821 (September 2003), amended by the Department of Health, Office of Public Health, Bureau of Emergency Medical Services and Emergency Medical Services Certification Commission, LR 50:

§303. Denial of Licensure, Reinstatement, or the Right to Practice EMS as a Student

A. - A.2. ...

3. has pled guilty, nolo contendere, or been convicted of any crime that directly relates to the EMS profession generally or the specific type of EMS license type, permit, or eligibility sought.

B. - C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1131.1(E), R.S. 40:1133.1(A)(E), R.S. 40:1133.5(9), R.S. 40:1133.7(1)(2), R.S. 40:1133.4 and 40:2017.10.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Emergency Medical Services Certification Commission, LR 29:1821 (September 2003), amended by the Department of Health, Office of Public Health, Bureau of Emergency Medical Services and Emergency Medical Services Certification Commission, LR 50:

§305. Delay of Licensure, Reinstatement, or the Right to Practice EMS as a Student

A. - A.1. ...

2. has a pending criminal charge for any crime that directly relates to the EMS professional generally or the specific type of EMS license type, permit, or eligibility sought; or

3. has pled guilty, nolo contendere, or been convicted of a crime that directly relates to the EMS profession generally or the specific type of EMS license type, permit, or eligibility sought, and the conditions of the court have not been met, or is currently serving a court ordered probation or parole.

B. - C.2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1131.1(E), R.S. 40:1133.2(A)(E), R.S. 40:1133.5(9), R.S. 40:1133.7(1)(2), and R.S.2017.10.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Emergency Medical Services Certification Commission, LR 29:1822 (September 2003) amended by the Department of Health, Office of Public Health, Bureau of Emergency Medical Services and Emergency Medical Services Certification Commission, LR 50:

Chapter 5. Disciplinary Proceedings; Alternative to Disciplinary Proceedings

§501. Definition of Terms Applying to EMS Practice as Used in This Chapter

A. As they apply to EMS practice and/or to the exercise of the commission's disciplinary authority, the following words and terms are hereby defined as used within this Chapter.

* * *

Collaborating—a process involving two or more health care professionals working together, though not necessarily in each other's presence, each contributing one's respective area of expertise to provide more comprehensive care than one alone can offer.

* * *

Probate—to stay a sentence of license suspension during good behavior and placing under supervision of Bureau of a period of time. License is marked "probated" and specific requirements are identified.

* * *

Suspend—to hold licensure to practice as an EMS practitioner in abeyance for a definite or an indefinite period of time

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1133.4(A)(8) and R.S. 1133.5(9) and R.S. 40:2017.10.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Emergency Services Certification Commission, LR 29:1822 (September 2003), amended by the Department of Health, Office of Public Health, Emergency Medical Services Certification Commission and the Bureau of Emergency Medical Services, LR 50:

§505. Proceedings against Licensed EMS Practitioners, Certified Ambulance Operators, Licensed EMS Practitioner Applicants, or Certified Ambulance Operator Applicants

A. - B. ...

C. A complaint that an individual engaged in, or is engaging in, any conduct proscribed by R.S. 40:1133.7, 40:1133.10, 40:1133.18, or this Part, may be made by any person, staff, agency or the commission. Such complaints shall be in writing, and on a form prescribed by the commission. However, nothing shall prohibit the bureau or commission from acting upon an allegation of licensee wrongdoing learned of or submitted by other means.

D. - D.2....

3. has pled guilty, nolo contendere, or been convicted of a crime that directly relates to the EMS profession generally or the specific type of EMS license type, permit, or eligibility sought;

D.4. - E.1. ...

2. has pled guilty, nolo contendere, or been convicted of a crime that directly relates to the EMS profession generally or the specific type of EMS license type, permit, or eligibility sought.

3. - 15. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1133.4(A)(8), R.S. 40:1133.5(9), R.S. 40:1133.9, R.S. 40:1133.10 and R.S. 40:2017.10.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Emergency Medical Services Certification Commission, LR 29:1823 (September 2003), amended by the Department of Health, Office of Public Health, Bureau of Emergency Medical Services and Emergency Medical Services Certification Commission, LR 50:

§511. Formal Disciplinary Action

A. - B.1. ...

C. Voluntary Surrender of License. An individual who is under investigation for violation of the provisions or requirements of this Part may voluntarily surrender his or her license or certification to the bureau. The voluntary surrender invalidates the license or certification at the time of its relinquishment. An individual practicing as a licensed EMS practitioner after a voluntary surrender is considered an illegal practitioner and is subject to the penalties provided by this chapter and R.S. 40.1131 et seq.

C.1. - E.1.b. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1133.4(A)(8), R.S. 40:1133.5(9) and R.S. 40:2017.10.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Emergency Medical Services Certification Commission, LR 29:1825 (September 2003), amended by the Department of Health, Office of Public Health, Bureau of Emergency Medical Services and Emergency Medical Services Certification Commission, LR 50:

§513. Formal Hearing

A. - E.8. ...

F. Disciplinary Sanctions

1. ...

2. The commission may set forth guidelines with ranges of disciplinary sanctions from which disciplinary penalties may be imposed. These guidelines are intended to serve only as a guide for staff and commission members when considering penalties, which could be imposed for specific violations of the provisions or requirements of this Part. Guidelines are in no way binding on the commission when dealing with disciplinary matters. The commission may order license sanctions.

F.3. - I.2.b. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 1133.4(A)(8), R.S. 40:1133.5(9), and R.S. 40:2017.10.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Emergency Medical Services Certification Commission, LR 29:1825 (September 2003), amended by the Department of Health, Office of Public Health, Bureau of Emergency Medical Services and Emergency Medical Services Certification Commission, LR 50:

Public Comments

Interested persons may submit written comments to Susan Bailey, Director, Bureau of Emergency Medical Services, Office of Public Health, Louisiana Department of Health, P.O. Box 4489, Baton Rouge, LA 70821-4489. Ms. Bailey is responsible for responding to inquiries regarding these substantive changes to the proposed Rule.

Public Hearing

A public hearing on the substantive changes to the proposed Rule is scheduled for Tuesday, November 28, 2023 at 9:00AM in Room 173, Bienville Building, 628 North Fourth Street, Baton Rouge, LA. At that time all interested persons will be afforded an opportunity to submit data,

views or arguments either orally or in writing. The deadline for receipt of all written comments is 4:30PM on November 28, 2023.

Stephen R. Russo, JD
Secretary

2310#038

POTPOURRI

**Department of Natural Resources
Office of Conservation**

Orphaned Oilfield Sites—August 2023

Office of Conservation records indicate that the Oilfield Sites listed in the table below have met the requirements as set forth by Section 91 of Act 404, R.S. 30:80 et seq., and as such are being declared Orphaned Oilfield Sites.

Operator	Field	District	Well Name	Well Number	Serial Number
Bessie King	Monroe	Monroe	Taylor	001	154749
Del-Shel Exploration Co.	Erath	Lafayette	T J Landry	001	18853 (03)
Exchange Expl & Prodn Co	Wilmer	Lafayette	L Tusc sud; Lk Superior Plg Fw	001	78493
Exchange Expl & Prodn Co	Wilmer	Lafayette	L Tusc sue; Lk Superior Plgco	001	98364
Exchange Expl & Prodn Co	Little Silver Creek	Lafayette	Winfred Blades	001	156657
Exchange Expl & Prodn Co	Liverpool	Lafayette	Vub;Mina Travis	001	227762
J. A. Harper	Lamar	Monroe	Baker Estate	001	50265(29)
Linder Oil Co. A Partnership	Bayou Bleu	Lafayette	Destec Ventures Inc.	002	217383(30)
Michael Watson Construction LLC	Monroe	Monroe	Sturgeon	001	172978
Pam Hart	Monroe	Monroe	Pam Hart	001	204433
Ram Operating Company, Inc.	Boutte	Lafayette	Joseph Rathbourne LD & LBR Co	003	54182(30)
Roy D. Gish	Caddo Pine Island	Shreveport	Comegys A	004	218884

Operator	Field	District	Well Name	Well Number	Serial Number
William Lee Dumas	Monroe	Monroe	Dumas	001	48541
William Lee Dumas	Monroe	Monroe	Dumas	002	159341

Monique M. Edwards
Commissioner

2310#005

POTPOURRI

**Department of Natural Resources
Office of Conservation**

Orphaned Oilfield Sites—October 2023

Office of Conservation records indicate that the Oilfield Sites listed in the table below have met the requirements as set forth by Section 91 of Act 404, R.S. 30:80 et seq., and as such are being declared Orphaned Oilfield Sites.

Operator	Field	District	Well Name	Well Number	Serial Number
American Casing Crews, Inc.	Tullos Urania	M	Tremont LBR Co	007	152701 (29)
Bray Drilling Co., Inc	Wildcat-No La Shreveport Dist	S	Interntl Paper Co	004	105030
C.L. Morris	Caddo Pine Island	S	Raines	043	56623 (30)
Discovery Operating, LLC	Vinton	L	Cleon Land Development Co	010	33159
Discovery Operating, LLC	Vinton	L	Cleon Land Development Co	008	37974
Discovery Operating, LLC	Vinton	L	Cleon Land Development Co swd	009	41587
Discovery Operating, LLC	Vinton	L	Jardell ra sua; Jardell	001	132986
Discovery Operating, LLC	Vinton	L	Cleon Land Development Co	001	136484
Discovery Operating, LLC	Vinton	L	Cleon Land Development Co	002	136602

Operator	Field	District	Well Name	Well Number	Serial Number
Discovery Operating, LLC	Vinton	L	Cleon Land Development Co	003	136867
Discovery Operating, LLC	Vinton	L	J & L Jardell	001	223992
Discovery Operating, LLC	Vinton	L	Cleon Land Development Co	012	223993
Discovery Operating, LLC	Vinton	L	Cleon Land Development Co	011	224507
Discovery Operating, LLC	Vinton	L	Opal Gray Trust 4	002	231603
Discovery Operating, LLC	Vinton	L	Matilda Gray Stream J-4	001	231930
Discovery Operating, LLC	Vinton	L	Stream Family Partnership 32	001	232014
Discovery Operating, LLC	Vinton	L	Stream Family LP 34	001	232191
Discovery Operating, LLC	Vinton	L	Opal Gray Trust 4	004	232863
Discovery Operating, LLC	Vinton	L	Opal Gray Trust 4	001	234567
Discovery Operating, LLC	Vinton	L	Opal Gray Trust 4 swd	005	234861
Discovery Operating, LLC	Vinton	L	Opal Gray Trust 4	009	234925
Discovery Operating, LLC	Vinton	L	Matilda G Stream et al 33	001	235017
Discovery Operating, LLC	Vinton	L	Matilda G Stream et al 33	002	235018
Discovery Operating, LLC	Vinton	L	Stream Family Lp-34	007	235221
Discovery Operating, LLC	Vinton	L	Matilda G Stream et al 33	003	235230
Earl A. rambin	Red River-Bull Bayou	S	Rambin	001	163629
Fieldwood Energy Offshore LLC	Burrwood	L	SL 3011 swd	001	94250

Operator	Field	District	Well Name	Well Number	Serial Number
Fieldwood Energy Offshore LLC	Myette Point	L	SL14519	001	217082
Fieldwood Energy Offshore LLC	Myette Point	L	SL 14519	002	219601
Fieldwood Energy Offshore LLC	Myette Point	L	vud; SL 14520	002	220570
Fieldwood Energy Offshore LLC	Myette Point	L	vub; SL 14914	002	222245
Fieldwood Energy Offshore LLC	Myette Point	L	vub; SL 14914	003	241212
Fieldwood Energy Offshore LLC	Myette Point	L	SL 14519 swd	001	972655
G & G Productions	Grogan	S	Hall Estate	001	161594
Inactive Operator	Caddo Pine Island	S	C G Dawes Trustee	001	990501
Linder Oil Co. A Partnership	Bayou Bleu	L	Destec Ventures Inc	001	210903 (30)
Keen & Woolf Oil Co.	Tullos Urania	M	Griswold	001	10041 (30)
SES Production	Caddo Pine Island	S	Wall-Moss A	005	37093
SES Production	Caddo Pine Island	S	Wall-Moss A	006	40553
SES Production	Caddo Pine Island	S	Wall-Moss A	001	53933
SES Production	Caddo Pine Island	S	Wall-Moss A	004	55703
SES Production	Caddo Pine Island	S	Wall-Moss A	003	55704
SES Production	Caddo Pine Island	S	Wall-Moss A	002	55705
SES Production	Caddo Pine Island	S	Moss	006	57393

Operator	Field	District	Well Name	Well Number	Serial Number
SES Production	Caddo Pine Island	S	Moss	007	57394
SES Production	Caddo Pine Island	S	Moss	013	57517
SES Production	Caddo Pine Island	S	Moss	012	57518
SES Production	Caddo Pine Island	S	Moss	005	58367
SES Production	Caddo Pine Island	S	Moss	018	58368
SES Production	Caddo Pine Island	S	Moss	011	58501
SES Production	Caddo Pine Island	S	Moss swd	008	58502
SES Production	Caddo Pine Island	S	Harrist-Moss	001	59919
SES Production	Caddo Pine Island	S	Gary-Moss	001	59979
SES Production	Caddo Pine Island	S	Sanders-Moss	001	60049
SES Production	Caddo Pine Island	S	Bateman-Moss	001	60223
SES Production	Caddo Pine Island	S	Wall-Moss	005	62797
SES Production	Caddo Pine Island	S	Colvin et al	001	169600
SES Production	Caddo Pine Island	S	Colvin et al	002	169625
SES Production	Caddo Pine Island	S	Colvin et al	005	169628
SES Production	Caddo Pine Island	S	Colvin et al	007	169747
SES Production	Caddo Pine Island	S	Colvin et al		169748
SES Production	Caddo Pine Island	S	Colvin A	001	170856

Operator	Field	District	Well Name	Well Number	Serial Number
SES Production	Caddo Pine Island	S	Colvin A swd	002	171023
SES Production	Caddo Pine Island	S	Colvin et al	008	171573
SES Production	Caddo Pine Island	S	Colvin et al	009	171574
SES Production	Caddo Pine Island	S	Colvin B	001	171576
SES Production	Caddo Pine Island	S	Colvin B	002	171577
SES Production	Caddo Pine Island	S	Colvin B	003	171578
SES Production	Caddo Pine Island	S	Colvin B	005	171580
SES Production	Caddo Pine Island	S	Colvin B	006	171581
SES Production	Caddo Pine Island	S	Colvin B	007	171582
SES Production	Caddo Pine Island	S	Colvin B	008	171583
SES Production	Caddo Pine Island	S	Payne	007	206982
SES Production	Caddo Pine Island	S	Nance	001	221233
SES Production	Caddo Pine Island	S	Nance	002	221234
SES Production	Caddo Pine Island	S	Nance	003	221235
SES Production	Caddo Pine Island	S	Nance	004	221236
SES Production	Caddo Pine Island	S	Nance	005	221237
SES Production	Caddo Pine Island	S	Nance	006	221238
SES Production	Caddo Pine Island	S	Nance	007	221239

Operator	Field	District	Well Name	Well Number	Serial Number
SES Production	Caddo Pine Island	S	Nance	008	221240
SES Production	Caddo Pine Island	S	Nance	009	221241
SES Production	Caddo Pine Island	S	Ardis Co	011	225333
SES Production	Caddo Pine Island	S	Ardis Co	013	225335
SES Production	Caddo Pine Island	S	Ardis Co	017	225541
SES Production	Caddo Pine Island	S	Wyche	001	225546
SES Production	Caddo Pine Island	S	Hammonds	001	225701
SES Production	Caddo Pine Island	S	Wyche	003	225702
SES Production	Caddo Pine Island	S	Wyche	004	225703
SES Production	Caddo Pine Island	S	Wyche	006	225801
SES Production	Caddo Pine Island	S	Ardis Co	021	225958
SES Production	Caddo Pine Island	S	Stinson	001	226261
SES Production	Caddo Pine Island	S	Ardis Co	023	226512
SES Production	Caddo Pine Island	S	Ardis Co	024	226513
SES Production	Caddo Pine Island	S	Ardis Co	026	226613
SES Production	Caddo Pine Island	S	Ardis Co	027	226614
SES Production	Caddo Pine Island	S	C W Lane Heirs et al	001	233168
SES Production	Caddo Pine Island	S	C W Lane Heirs et al	002	233716

Operator	Field	District	Well Name	Well Number	Serial Number
SES Production	Caddo Pine Island	S	Hickman	001	234290
SES Production	Caddo Pine Island	S	Hickman	003	235582
SES Production	Caddo Pine Island	S	Mcclure	001	235583
SES Production	Caddo Pine Island	S	Florence	001	235584
SES Production	Caddo Pine Island	S	Marak	001	235585
SES Production	Caddo Pine Island	S	Wilhite Electric	001	236436
SES Production	Caddo Pine Island	S	Wilhite Electric	002	236437
SES Production	Caddo Pine Island	S	Wilhite Electric	004	236875
SES Production	Caddo Pine Island	S	Wilhite Electric	005	236876
SES Production	Caddo Pine Island	S	Jolly Heirs	002	237380
SES Production	Caddo Pine Island	S	Colvin et al swd	001	975681
Ted Dunham	Caddo Pine Island	S	Ducote	001	106759 (29)

Monique M. Edwards
Commissioner

2310#011

POTPOURRI

**Department of Natural Resources
Office of Conservation**

Public Hearing—Substantive Changes to Proposed Rule;
Venting and Flaring of Natural Gas
(LAC 43:XIX.103, 3503, 3507, 3509, and 3511)

The office published a Notice of Intent to amend LAC 43:XIX and Subpart 1. (Statewide Order No. 29-B) Chapter 1 (General Provisions) and Subpart 15 (Statewide Order No. 45-I-A) Chapter 35 (Gas/Oil Ratios, Allowables and Venting of Natural Gas) in the July 20, 2023 edition of the *Louisiana Register* (LR 49:1344). The intent of the amendments are to

prohibit venting and flaring of natural gas except as authorized in Subpart 15. Benefits of these amendments include reducing natural gas waste and recovering reserves. The notice solicited comments. As a result of its analysis of the comments received, the office proposes to amend certain portions of the proposed amendments. Within §103.A.3.b.iii, applicants shall evaluate and select one or more beneficial uses in lieu of evaluating or selecting. In §3507.A and E, clarification to exceptions is added. In §3507.B, addition of economic benefit has been added as an evaluating factor. In §3509.A.1-3, “and” has been replaced with “or” for approved exceptions. In §3509.A.3, “workover, intervention, and maintenance operations” have been listed to replace reference to “unavoidable situations” listed in §3511.A, thereby clarifying approved exceptions.

Taken altogether, all of these proposed amendments will closely align the proposed Rule on the same topic as published in the July 2023 edition of the *Louisiana Register* (LR 49:1344). The primary group impacted by these rule changes will be Exploration and Production (E&P) companies. There are additional costs associated with the proposed rule change which should be balanced by revenue increases.

Title 43

NATURAL RESOURCES

Part XIX. Office of Conservation—General Operations

Subpart 1. Statewide Order No. 29-B

Chapter 1. General Provisions

§103. Application to Drill

A. - A.2. ...

3. After [effective date of rule], the operator shall certify that it has determined at the time of submitting an application for permit to drill that:

a. it will be able to connect the well to a natural gas gathering system in the general area with sufficient capacity to transport one hundred percent of the volume of natural gas the operator anticipates the well will produce; or

b. it will not be able to connect to a natural gas gathering system in the general area with sufficient capacity to transport one hundred percent of the volume of natural gas the operator anticipates the well will produce. The operator shall state that they will either:

i. shut-in the well until the operator can comply with §103.A.3.a; or

ii. evaluate if well is candidate for flaring based on economic hardship per §3507.B; or

iii. provide a gas capture plan that evaluates and selects one or more beneficial uses until a natural gas gathering system is available, including:

(a). field use;

(b). power generation for alternative use;

(c). enhanced recovery operations; and

(d). other alternative beneficial use that does not result in venting or flaring.

B. - E.4. ...

AUTHORITY NOTE: Promulgated in accordance with R.S.30:4 et seq., and R.S. 30:28(I).

HISTORICAL NOTE: Adopted by the Department of Conservation (August 1943), amended (August 1958), (August 1961), (May 1973), amended by the Department of Natural Resources, Office of Conservation, LR 34:2639 (December 2008), LR 39:515 (March 2013), effective on May 1, 2013, LR 50:

Subpart 15. Statewide Order No. 45-I-A

Chapter 35. Gas/Oil Ratios, Allowables, Venting and Flaring of Natural Gas

§3503. Definitions

A. ...

Routine Flaring—flaring during normal oil production operations in the absence of sufficient facilities or amenable geology to re-inject the produced gas, utilize it on-site, or dispatch it to a market.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Adopted by Department of Conservation, July 20, 1943, amended January 1, 1966, December 1, 1973, amended and promulgated by the Department of Natural Resources, Office of Conservation, LR 23:581 (May 1997), LR 50:

§3507. Venting and Flaring of Gas

A. The venting of natural gas from any well producing in the state of Louisiana is hereby expressly prohibited except in those instances where routine flaring as specified in §3507.B is not an economical or safe alternative, or those instances which are included as exceptions under §3509.

B. The routine flaring of natural gas from any well producing in the state of Louisiana with a gas/oil ratio > 2000/1 is hereby expressly prohibited except in those instances where the Office of Conservation finds, upon written application, that such prohibition would result in an economic hardship on the operator of the well, lease or production facility from which the gas is proposed to be flared; provided, however, that no such economic hardship can be found in the case where the current market value, at the point of delivery, of the gas proposed to be flared exceeds the cost involved in making such gas available to a market, or where revenue or economic benefit from a beneficial use identified in §103.A.3.b.iii.(a)-(d) exceeds the cost involved in implementing same. Such applications shall be filed with the district office and approval thereof will be at the discretion of the district manager and documented with the allowable. Applications shall include relevant well information and:

1. statement of need;

2. economic justification;

3. evaluation of alternative beneficial use per §103.A.3.b.iii.(a)-(d);

4. rate; and

5. length of time.

C. The routine flaring of natural gas from any horizontal well in the state of Louisiana with a gas/oil ratio < 2001/1 is hereby expressly prohibited except in those instances where application is made to and approved by the Office of Conservation as outlined in §3507.B.

D. Any flares must be placed a sufficient distance from wells, storage tanks, and any other significant structures or objects so that the flare does not create a safety hazard.

E. Any permissible venting or flaring, except in those instances which are included as exceptions under §3509.A.3, shall be reported, including measured or estimated volumes of each, on the monthly OGP and R5D.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Adopted by Department of Conservation, July 20, 1943, amended January 1, 1966, December 1, 1973, amended and promulgated by the Department of Natural Resources, Office of Conservation, LR 23:582 (May 1997), LR 50:

§3509. Exceptions and Hearings

A. ...

1. where the production of oil and gas or both is regulated by special field orders; or

2. in the recognized stripper areas; or

3. venting or flaring during drilling, completion, hydraulic fracturing operations, workover, intervention, and maintenance operations.

B. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Adopted by Department of Conservation, July 20, 1943, amended January 1, 1966, December 1, 1973, amended and promulgated by the Department of Natural Resources, Office of Conservation, LR 23:582 (May 1997), LR 50:

§3511. Violations

A. Any venting or flaring which contradicts this Statewide Order shall be a violation hereof, and subject the operator to appropriate regulatory sanctions.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Adopted by Department of Conservation, July 20, 1943, amended January 1, 1966, December 1, 1973, amended and promulgated by the Department of Natural Resources, Office of Conservation, LR 23:583 (May 1997), LR 50:

Public Hearing

A public hearing will be held on Tuesday, November 28, 2023 at 9:00 a.m. in the LaSalle Building, LaBelle Hearing Room, 617 N. Third Street, Baton Rouge, LA 70802. If accommodations are required under the Americans With Disabilities Act, please advise the Office of Conservation, Engineering Division at P.O. Box 94275, Baton Rouge, LA 70804-9275 in writing within ten (10) working days of the hearing date.

Monique M. Edwards
Commissioner

2310#033

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