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This public document was published at a total cost of \$6,087.13. 1,100 copies of this public document were published in this monthly printing at a cost of \$4,087.13. The total cost of all printings of this document including reprints is \$6,087.13. This document was published by Bourque Printing, Inc., 13112 South Choctaw Drive, Baton Rouge, LA 70815, as a service to the state agencies in keeping them cognizant of the new rules and regulations under the authority of R.S. 49:950-970. This material was printed in accordance with standards for printing by state agencies established pursuant to R.S. 43:31. Printing of this material was purchased in accordance with the provisions of Title 43 of the Louisiana Revised Statutes.

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# Executive Orders

## EXECUTIVE ORDER BR 89 - 26

WHEREAS, the Louisiana Legislature found and declared that there exists in the State of Louisiana a shortage of decent safe and sanitary residential housing at prices within the financial means of persons and families of low and moderate income; and

WHEREAS, the Louisiana Legislature also found and declared that the shortage of residential housing results in overcrowding and congestion and exacerbates existing slum conditions which, in turn, contribute substantially and increasingly to the spread of disease and crime, impair economic values of property, necessitate excessive and disproportionate expenditures of public funds for crime prevention and other services, substantially impair or arrest the growth of rural and urban areas, aggravate traffic problems and exacerbate juvenile delinquency and other social ills; and

WHEREAS, the Louisiana Housing Finance Agency (the "agency") was created to facilitate the provisions of decent, safe and sanitary residential housing at affordable prices to persons of low and moderate income; and

WHEREAS, the board of commissioners of the agency is authorized and directed by the Louisiana Housing Finance Act contained in Chapter 3-A of Title 40 of the Louisiana Revised Statutes of 1950 to establish policy for housing finance for all units, divisions, agencies, public corporations and instrumentalities of the state directly or indirectly involved in financing single family or multifamily housing; and

WHEREAS, the agency is authorized to undertake and carry out or authorize the completion of studies and analyses of housing conditions and needs within the state and ways of meeting such needs; and

WHEREAS, the U. S. Congress is considering legislation which may require that the agency allocate Low Income Housing Tax Credits pursuant to a State Housing Plan; and

WHEREAS, the State of Louisiana has not previously conducted such analyses or studies necessary to devise or to implement a State Housing Plan; and

WHEREAS, the agency is proposing to conduct a workshop on housing cooperatives and to sponsor the first statewide housing policy congress in order to accumulate information necessary to develop an effective and coherent housing strategy and to disseminate such information to the public and to the housing industry; and

WHEREAS, the governor of the State of Louisiana deems it desirable and expedient to support and reinforce the efforts of the agency to develop a set of housing policies for the state after appropriate research, analysis and consultation with appropriate representatives of the shelter industry; and

WHEREAS, the governor of the State of Louisiana recognizes that a coherent plan to improve housing in the state contributes to the economic development of the state by making the communities of our state more desirable and attractive places for investment and also stimulates jobs through construction and related shelter employment; and

WHEREAS, The U.S. Department of Housing and Urban Development ("HUD") provides substantial resources to the State of Louisiana and its instrumentalities through direct funding, insurance, and technical assistance and other services; and

WHEREAS, the governor of the State of Louisiana further deems it desirable and expedient to formalize a cooperative working relationship with HUD to devise a coherent housing plan for the state; and

WHEREAS, the governor of the State of Louisiana also deems it desirable and expedient to authorize and direct the various departments, agencies, divisions, units and instrumentalities of state government and public corporations to cooperate in the first state effort to devise a workable and coherent housing plan for the state which plan shall coordinate the limited housing resources of the state to maximize their pact upon the housing problems of the state;

NOW, THEREFORE, I BUDDY ROEMER, Governor of the State of Louisiana do hereby order and direct as follows:

SECTION 1. The Louisiana Housing Finance Agency (the "agency") is hereby authorized and directed to coordinate the research, analysis and activities necessary to prepare and establish the first set of comprehensive housing policies for the State of Louisiana (the "state"). The convening by the agency of the First Statewide Housing Policy Congress on the nineteenth and twentieth of October, 1989 in New Orleans is hereby authorized and confirmed. Such policy congress shall be the official meeting at which housing consultants and representatives of the shelter industry may share their analyses and assessments of the state's housing problems and proposed solutions thereto.

The agency is further authorized and directed to coordinate the research, analysis and activities necessary to prepare and establish the first State Housing Plan.

SECTION 2. Each department, agency, division and instrumentality of state government (individually, a "state entity") is hereby authorized and directed to cooperate with the agency in carrying out the provisions of the executive order. Each state entity shall provide the agency such information as the agency may request.

SECTION 3. The agency is authorized and directed to consult with HUD in the preparation of the state's first Housing Plan and to formalize through a memorandum of understanding or other such document the relationship which will mutually serve the interest of the state and HUD in improving the housing conditions of Louisiana citizens and promoting community development.

SECTION 4. This executive order shall be effective on the date of execution by the governor.

IN WITNESS WHEREOF, I have hereunto set my hand officially and caused to be affixed the Great Seal of the State of Louisiana, at the Capitol, in the City of Baton Rouge, on this 9th day of August, 1989.

Buddy Roemer  
Governor of Louisiana

ATTEST BY  
THE GOVERNOR  
Fox McKeithen  
Secretary of State

**EXECUTIVE ORDER BR 89 - 27**

WHEREAS, The Governor's Special Commission on Education Services is presently administering numerous scholarship programs for higher education; and

WHEREAS, the funding to administer these programs has been appropriated to the Board of Regents, or its successor, and the Board of Elementary and Secondary Education; and

WHEREAS, these programs would be more effectively administered by the Board of Regents, or its successor, and the Board of Elementary and Secondary Education; and

WHEREAS, the administration of the scholarship programs known as the "Education Majors," "T. H. Harris," "Governor's Scholar's," "High School Rally," "Rockefeller," "Paul Douglas," and "State Student Incentive Grants" is to be transferred,

NOW, THEREFORE, I BUDDY ROEMER, Governor of the State of Louisiana, do hereby order and direct as follows:

SECTION 1. The administration of the "Education Majors" scholarship program is hereby transferred from the Governor's Special Commission on Education Services to the Board of Elementary and Secondary Education, effective on the sixteenth day of August, 1989.

SECTION 2. The administration of the "T. H. Harris," "Governor's Scholar's," "High School Rally," "Rockefeller," "Paul Douglas," and "State Student Incentive Grant" scholarship programs are hereby transferred from the Governor's Special Commission on Education Services to the Board of Regents, or its successor, effective the sixteenth day of August, 1989.

IN WITNESS WHEREOF, I have hereunto set my hand officially and caused to be affixed the Great Seal of the State of Louisiana, at the Capitol, in the City of Baton Rouge, on this 16th day of August, 1989.

Buddy Roemer  
Governor of Louisiana

ATTEST BY  
THE GOVERNOR  
Fox McKeithen  
Secretary of State

tribal-state compact governing the conduct of the Indian gaming activities; and

WHEREAS, upon receiving such a request from an Indian tribe the Indian Gaming Regulatory Act requires the state to negotiate in good faith with the Indian tribe to enter into such a compact;

WHEREAS, the provisions of any negotiated compact, as well as any activity connected with Indian Gaming should be monitored by the state as a party to the compact;

NOW THEREFORE I, BUDDY ROEMER, Governor of the State of Louisiana, do hereby order and direct the establishment of the Louisiana Indian Gaming Commission as follows:

SECTION 1. Said commission shall be comprised of the following persons appointed by the governor; the executive director of the governor's commission on Indian Affairs; a representative of the State Police Gaming Regulatory Unit; a state representative; a state senator and a representative of the governor's office, or any of their designees.

SECTION 2. Members will serve at the pleasure of the governor.

SECTION 3. Members will receive no compensation except as otherwise provided by law.

SECTION 4. The commission shall represent the State of Louisiana in any negotiation pertaining to the Indian Gaming Regulatory Act. The commission shall monitor Indian Gaming and report to the governor regarding any and all developments in Indian gaming, as defined in the federal act.

IN WITNESS WHEREOF, I have hereunto set my hand officially and caused to be affixed the Great Seal of the State of Louisiana, at the Capitol, in the City of Baton Rouge, on this 25th day of August, 1989.

Buddy Roemer  
Governor of Louisiana

ATTEST BY  
THE GOVERNOR  
Fox McKeithen  
Secretary of State

**EXECUTIVE ORDER BR 89 - 29**

WHEREAS, the final report of the Elderly Health Care Council made to the governor and the legislature in March, 1989 recommended the establishment of an interagency long term care policy council to coordinate the development of a comprehensive long term care system; and

WHEREAS, the legislature, in Senate Concurrent Resolution No. 118 of 1989 has urged and requested the appointment of a task force to develop a plan for a coordinated system of home and community based services for the functionally impaired elderly and disabled; and

WHEREAS, the development of such a system should improve the efficiency and effectiveness of delivery of services to the elderly and disabled;

NOW THEREFORE, I, BUDDY ROEMER, Governor of the State of Louisiana, do hereby order and direct that:

SECTION 1. The Task Force on Community Based Services for the Functionally Impaired Elderly and Disabled, comprised of the secretary of the Department of Health and Hospitals, the secretary of the Department of Social Services, and the director of the Governor's Office of Elderly Affairs, is

**EXECUTIVE ORDER BR 89 - 28**

WHEREAS, the Congress of the United States of America enacted public law 100-497 approved October 17, 1988, otherwise known as the Indian Gaming Regulatory Act, whose purpose is to provide statutory basis for the operation of gaming by Indian tribes as a means of promoting tribal economic development, self sufficiency, and strong tribal governments; and

WHEREAS, the Indian Gaming Regulatory Act provides a statutory basis for the regulation of gaming by Indian tribes to shield the tribe and its gaming activities from organized crime and other corrupting influences, to ensure that the Indian tribe is the primary beneficiary of the gaming operation, and to assure that gaming is conducted fairly and honestly by both the operator and players; and

WHEREAS, the Indian Gaming Regulatory Act requires that any federally recognized Indian tribe having jurisdiction over Indian lands upon which a gaming activity is being conducted, shall request the state in which such lands are located to enter into negotiations with that state for the purpose of entering into a

hereby created and directed to develop a plan for a coordinated system of home and community based services for the functionally impaired elderly and disabled of Louisiana.

SECTION 2. The Task Force shall hold an initial meeting within thirty days of the issuance of this order and shall meet as often as needed to comply with the deadlines and reporting dates contained in SCR 118 of 1989.

SECTION 3. The Task Force shall submit reports and recommendations as outlined in SCR 118 and copies of all reports and recommendations shall be delivered to the governor, the chairman of the Senate Health and Welfare Committee, the chairman of the House Health and Welfare Committee, the Joint Legislative Committee on the Budget, and the Budget Task Force.

SECTION 4. The Governor's Office of Elderly Affairs shall provide the necessary staff support for the Task Force. Staff of the Department of Health and Hospitals and the Department of Social Services shall provide support as directed by the secretaries of those departments.

SECTION 5. The Task Force may hold hearings, consult interested parties, conduct research, and carry out other activities necessary to the development of a plan.

SECTION 6. The secretary of the Department of Health and Hospitals, the secretary of the Department of Social Services, and the director of the Governor's Office of Elderly Affairs are hereby directed to undertake such action as is necessary to accomplish the purposes of this order. Coordination of activities shall be through the Governor's Office of Elderly Affairs.

SECTION 7. This order shall be effective upon signature of the governor.

IN WITNESS WHEREOF, I have hereunto set my hand officially and caused to be affixed the Great Seal of the State of Louisiana, at the Capitol, in the City of Baton Rouge, on this 25th day of August, 1989.

Buddy Roemer  
Governor of Louisiana

ATTEST BY  
BY THE GOVERNOR  
Fox McKeithen  
Secretary of State

The Office of Commerce and Industry on August 29, 1989, determined that rule changes and additions are necessary to better implement the programs and purposes of the Certified Capital Companies Act. This program and its purpose, by helping to build or create jobs, will have a beneficial effect on the health and welfare of the citizenry of Louisiana. Therefore, this request is made that the amendments be accepted as emergency rules effective August 29, 1989, as approved by the assistant secretary of the Office of Commerce and Industry.

**Title 51**  
**TRADE AND COMMERCE**  
**Chapter 26. The Louisiana Capital**  
**Companies Tax Credit Program**

**RECERTIFICATION**

1. RULE 1, entitled "definitions" is amended by adding a new subsection (8) which provides as follows:

(8) The date that a Louisiana Capital Company is "certified" or is "newly certified" or is "designated as a certified Louisiana Capital Company", is the date that a Louisiana Capital Company is notified of the certification or recertification by the Secretary.

2. RULE 7, entitled "initial funding" shall be amended by designating the existing paragraph as paragraph A and adding a new paragraph B which provides as follows:

B. A Louisiana Capital Company shall be considered "newly certified" on the date that it is certified or recertified by the Secretary.

3. New RULE 13, entitled "Recertification" provides as follows:

Any Louisiana Capital Company certified prior to September 8, 1989 may apply to the secretary for recertification by written request. A Louisiana Capital Company applying for recertification must demonstrate to the satisfaction of the secretary that the capital company is in compliance with LA R.S. 51:1921, et seq. and the rules and regulations promulgated thereunder. Any Louisiana Capital Company recertified hereunder shall be considered newly certified from the date of recertification.

Arnold M. Lincove  
Secretary

# Emergency Rules

## DECLARATION OF EMERGENCY

### Department of Economic Development Office of Commerce and Industry

The Department of Economic Development, Office of Commerce and Industry, is exercising the emergency provision of the Administrative Procedure Act, R.S. 49:953(b), to amend the rules of the Louisiana Capital Companies tax credit program.

## DECLARATION OF EMERGENCY

### Board of Elementary and Secondary Education

State Plan for the Nutrition Education and Training Program

The State Board of Elementary and Secondary Education, at its meeting of August 31, 1989, exercised those powers conferred by the emergency provisions of the Administrative Procedure Act R. S. 49:953B and adopted the State Plan for the Nutrition Education and Training Program for FY '90-'91.

This emergency adoption is necessary because proper approval of the Nutrition Education and Training Program State Plan is a prerequisite to the U. S. D. A. - Dallas Regional Office releasing funds for the state's Fiscal Year 1990 NET grant, which begins October 1, 1989.

**State Plan  
Nutrition Education and Training Program  
FY '90-'91**

**I. INTRODUCTION**

This State Plan will enable the Louisiana Department of Education to receive funding for implementation of the 1990 and 1991 Nutrition Education and Training (NET) Program. The Louisiana NET Program is administered by the Bureau of Food and Nutrition Services of the State Department of Education.

The goal is to utilize materials and methods previously developed by NET to reach more areas of the state and more of the students, teachers, and food service personnel within areas that already have programs. Additionally, we will continue to assess needs and priorities and to develop materials and implement pilot projects where needed and as limited budget and staff size allows.

**II. NEEDS ASSESSMENT**

Reference--Part 227.37(b)(2)

The findings of the needs assessment within the state used to determine the goals and objectives of the State Plan and results of the evaluation of the previous years' State Plans for:

- i) inservice training of foodservice personnel,
- ii) nutrition education of children, and
- iii) inservice training in nutrition education for teachers.

No formal needs assessment was conducted during the past year; copies of previous needs assessment reports have been submitted to the Regional Office. The NET Coordinator and staff conduct periodic informal assessments of needs. Since NET activities for several years have emphasized training of school food service personnel and will continue to be very involved in this, the NET Program became more involved with nutrition education for teachers and students with the initiation of mini-grants to schools and child care centers.

Nutrition Education and Training activities have continued to deal with the development of the Louisiana Food Service Training Program. This project includes a competency-based education training model for school food service personnel. The project involves three phases with a total of 79 units. Phase I is for food service technicians, and Phases II and III are for prospective managers. This program includes instructional units, evaluation instruments, and audiovisual materials.

The purpose of NET funding for this project during FY '88 and '89 was to expand the test item pool for the Phases I and II Exams and to automate exam construction, grading, and analysis. During FY '88 and '89, the NET Program continued to be involved with training for School Food Service, Child Care Food Program, Summer Feeding Program, and Family Day Care Home Programs.

**III. PRIORITY POPULATIONS**

Reference--Part 227.37(b)(4)

Identification of the priority populations to be reached during the fiscal year.

Reference--Part 227.37(b)(7)

Plans including a timetable, for reaching all children in the State with instruction in the nutritional value of foods and the relationship among food, nutrition, and health, for inservice training of foodservice personnel in the principles and skills of foodservice management and nutrition and for inservice instruction for teachers in sound principles of nutrition education.

The following groups identified prior to submission of the 1978 State Plan continue to be the priority for NET. Progress has been made toward reaching these priority groups in each year of the Program. Every year the Program continues will enable more

members of these groups to be reached. These were the needs identified for the three priority groups:

**A. Children**

1. Children in elementary, middle, and high schools need to learn the basic nutritional value of foods and the relationship of nutrition to health to encourage their wise selection of foods and consumption of an adequate diet.

2. Children in child care centers and institutions need to be provided enjoyable learning experiences with foods which will encourage them to select a wide variety of good foods.

3. Children need to be provided with nutrition learning activities which will relate to other subject areas, to the lunchroom, to the home, and to the child's community environment.

4. Children in elementary, middle, and high schools need to be provided with information about child nutrition programs in order to gain an appreciation of the purpose of the Programs and to enable children to provide input into the Programs.

**B. Teachers**

1. Teachers need to obtain knowledge about the principles of basic nutrition and the importance of good nutrition to health for people of all ages.

2. Teachers need to be trained in methods of teaching nutrition to children of all ages, especially in methods of integrating nutrition education into the total educational program.

3. Teachers need to have access to current, sound teaching materials for nutrition education. There is a need to determine the usability of existing nutrition education material to make educators statewide aware of their availability, to determine what additional materials need to be developed, and to develop and evaluate needed materials. Additionally, there is a need to create an organized, sequential nutrition education program for children and to make this program available statewide.

4. Teachers and administrators need to be provided with information about child nutrition programs in order to develop an understanding and appreciation of these programs and to enable teachers to make use of child nutrition programs as learning laboratories for nutrition education.

**C. Food Service Personnel**

1. Food service personnel need to obtain more knowledge of nutrition and its importance to health for people of all ages.

2. Food service personnel need training in coordinating nutrition education activities with teachers. They need to become aware of the role of the food service program as a learning laboratory for nutrition education.

3. Food service personnel at all management levels need training and materials to enable them to effectively train food service workers in such areas as quantity food production, menu planning, purchasing, equipment, merchandising, portion control, and food handling.

Below is a chart which indicates the percentages of target populations targeted to be reached in FY '90 and '91.

POPULATION CATEGORY	PUBLIC SCHOOLS		PRIVATE SCHOOLS		RCCIs		CCIs	
	FY90	FY91	FY90	FY91	FY90	FY91	FY90	FY91
CHILDREN	5%	5%	5%	5%	3%	3%	3%	3%
TEACHERS	5%	5%	5%	5%	0%	0%	3%	3%
FOOD SERVICE PERSONNEL	10%	10%	10%	10%	3%	3%	5%	5%

**IV. COORDINATION WITH OTHER PROGRAMS**

Reference--Part 227.37(b)(5)

Provisions for coordinating the nutrition education and

training program carried out with funds made available under this part with any related publicly supported programs being carried out within the state to include:

- i. identification of existing programs that may be utilized;
- ii. description of how representatives of such groups are to be involved in the planning and implementation of the State Programs;
- iii. criteria and procedure for selection of such representatives.

The Louisiana Department of Education believes that it is important to coordinate NET Program activities with existing nutrition education and training efforts to avoid duplication, to provide consistency and reinforcement in training, and to maximize use of all resources. With minimum funding, coordination has become increasingly important and has been emphasized in the Louisiana NET Program.

Since the NET Program is located in the Bureau of Food and Nutrition Services (which administers all child nutrition programs for the Department of Education), there exists a natural coordination with other child nutrition programs. The NET Section coordinates and/or documents all bureau training activities. NET coordinates and participates in all conferences for administrative staffs of sponsoring agencies of child nutrition programs (including school food service, child care, family day care, and summer feeding programs). The NET staff, in conjunction with the staff of the Family Day Care Home Programs, presented a statewide training session for monitors. The NET staff also spoke at the Child Care Spring Conference on "Feeding the Handicapped." Through the Nutrition Education Mini-Grant Project, key leaders in the Child Care Food Program and in the School Food Service Program were identified and assisted with their nutrition education projects. For four or five years the Bureau of Evaluation in the Department of Education worked with the NET Program in the development of the Louisiana School Food Service Training Program. NET funds were provided to evaluate the implementation of the program and to develop the Manager Certification Examinations. The Bureau of Management Information Services has provided training and technical assistance to NET staff to computerize aspects of NET responsibilities.

The FNS Resource Library is maintained by the NET Section. The Library contains over 400 audiovisual materials (films, filmstrips, slides, filmloops, videotapes, transparencies, computer software, and teaching kits) which are loaned to schools and other child nutrition program sponsors. The Library operates on a free-loan basis with materials appropriate for students (preschool through grade 12), teachers (preschool, elementary, and secondary level), food service personnel (for all programs), parents and other adults. University faculty may also use these materials for classes for teachers, education and food service majors, and food service personnel. Staff from the Cooperative Extension Service has been using materials from the library to supplement their training programs with 4-H Club members and Home Economists. Records of usage of materials are maintained.

The library also houses and disseminates all printed resource materials available for distribution to participants of Child Nutrition Programs. These materials are given out upon request to either a bureau staff member or an employee (supervisor, teacher, etc.) of a participating agency (school board, community action agency, day care center, police jury, etc.). Materials concern either nutrition education or food service management. There are over 300 different resources listed in the inventory. Inventory of materials is maintained on a personal computer and

each month a report is generated outlining materials distributed, received, and on hand.

Additionally, NET maintains a staff library of over 300 reference materials for the Bureau staff. All Bureau staff may borrow reference materials. There are also 400 nutrition education materials (curriculum guides, units, games, etc.) which are used for nutrition education efforts by both state and local agency staffs.

The NET Program has a history of involvement with the Louisiana Nutrition Council which is composed of representatives from state and federal agencies, professional organizations, universities, and other organizations (such as the Louisiana Heart Association and Louisiana Restaurant Association) which have an interest in nutrition. The NET Coordinator represents the Bureau of Food and Nutrition Services on the Council, and the NET Program coordinates the annual Nutrition Month poster contest sponsored by the Council. Prizes for winners are provided by the Louisiana School Food Service Association. The NET Coordinator participated in a 30-minute television show highlighting the U.S. Dietary Guidelines. Thirty-second PSAs were made, also.

The NET Coordinator is active in the Louisiana School Food Service Association (LSFSA). NET staff has participated in the LSFSA State Convention. The NET Coordinator served as the Chairperson for a Health Fair at the 1989 LSFSA Convention and NET staff set up a booth at the Health Fair, featuring U.S. Dietary Guidelines. NET staff spoke on the Nutrition Education Mini-Grant Project at the 1988 Convention.

NET staff serve as judges for Cooperative Extension Service activities, such as 4-H Short Courses, and Extension staff serves as judges and evaluators for NET contests and activities. NET staff attended an Expanded Food and Nutrition Education Program Advisory Committee meeting.

Universities are also involved with the NET Program. Facilities at LSU (classrooms, dormitory space, and a dining hall) are utilized for summer training for prospective school food managers. NET staff give annual presentations about the Program to nutrition graduate students at Tulane University. Louisiana State University seniors majoring in dietetics came to the NET library to learn more about the program. University faculty have served as evaluators for NET Mini-Grants. The NET Program has provided support in terms of meetings and audiovisual materials for the Child and Adolescent Trial for Cardiovascular Health (CATCH) Project of the LSU Medical School.

The East Baton Rouge Parish Department of Emergency Medical Services works with the NET Program by providing training in first aid and CPR for the School Food Service Training Program for prospective managers. The NET Coordinator has worked very closely with the Food Distribution Division of the Louisiana Department of Agriculture and Forestry to develop the teaching unit on USDA Donated Foods for the Louisiana School Food Service Training Program, as well as develop test questions related to the unit.

The NET Coordinator provided literature and research for a school system to obtain grant money from the American School Food Service Association for a longitudinal study to determine the effectiveness of the School Breakfast Program on students' academic performances.

Other activities involving interaction with other agencies and organizations are as follows. The NET Coordinator has served on an interagency committee to implement the Louisiana Child Protection Act. Also, the NET staff has spoken at the Catholic Educator's Conference. Finally, NET staff has served as

a judge for a "Student Body Contest" at the Future Homemakers of America Convention. The NET Coordinator attended the NET Coordinator's National Meeting in Washington, DC.

**V. IMPLEMENTATION**

Reference--Part 227.37(b)(9)

A brief description of the Program or activities to be contracted with land-grant colleges, described above, and other institutions of higher education and other public or private nonprofit educational or research agencies, institutions or organizations for carrying out nutrition education and training activities.

Reference--Part 227.37(b)(10)

A brief description of pilot projects, including objectives, subject matter and expected outcomes, to be contracted with the land-grant colleges, described above, other institutions of higher education, public and nonprofit educational or research agencies, institutions, or organizations for but not limited to projects for development, demonstration, testing and evaluation of curricula in early childhood, elementary, and secondary programs.

Reference--Part 227.37(b)(12)

A brief description of (i) State Agency sponsored pilot projects, including objectives, subject matter and anticipated outcomes and (ii) nutrition education and training programs to be conducted by schools, school districts, and sponsoring agencies receiving funding under this provision including objectives, subject matter, and expected outcomes.

As listed in the references to the federal regulations above, there are a number of ways in which a state may implement the NET Program. These include pilot projects sponsored by the Louisiana Department of Education; use of land-grant college resources; and contracts, grants, or pilot projects conducted by universities and colleges, local school systems, sponsoring agencies, and other public or private nonprofit educational research agencies, institutions or organizations. During the early years of the Program, the Louisiana Department of Education used all suggested methods of implementation. Because of the extreme decrease in funding level most of the Program has been implemented by state staff for several years.

FY '90 and '91 activities will include an expansion of programs in participating school systems and child care institutions and an expansion of programs into these which are not presently

participating. With FY '87 funding, a system of mini-grants for school systems and child care sponsors was established. There will be a continuation of mini-grant funding in both FY '90 and '91.

The procedure for application for NET Program mini-grants is sent to school systems and child care sponsors. Applications are evaluated based upon established criteria which is included in application procedures. All grant agreements must be approved by departmental officials, including the Superintendent of Education.

At the present time, the names of grantees and the purposes of these projects are unknown for FY '90 and '91, however, the NET staff will be concerned with evaluation procedures. Plans are to utilize successful materials and methods developed or found during the early years to expand programs in participating school systems, private schools, and child care centers and to implement programs in unreached areas of the state. Also, it is anticipated that there will be activities sponsored by the Louisiana Department of Education.

Plans are to utilize a portion of both the FY '90 and '91 funds to develop the Phase III Examination for the Louisiana School Food Service Training Program. Previously, NET funds were utilized to develop both the Phase I and Phase II exams. This process involves the use of a test development specialist, as well as the entire school food service state staff, many local education agency school food service supervisors, and approximately 200 school food service managers and technicians (for the purpose of field testing test items). It takes approximately one year to complete the test development process and prior to that, content for all Phase III units must be finalized. These units are being developed by Louisiana Department of Education staff (including school food service and NET staffs).

NET will continue with its responsibilities regarding the various Child Nutrition Program conferences, the School Food Service Training Program, the Manager Certification Program, the FNS Library, the Nutrition Poster Contest and other annual activities. NET will also be involved with training sessions for staffs of the Family Day Care Home Program, the Child Care Food Program, the Summer Food Service Program for Children, and the School Food Service Program.

**VI. GOALS AND OBJECTIVES, EVALUATION, AND TIME FRAME**

Reference--Part 227.37(b)(3)

Goals and Objectives of the State Plan

Reference--Part 227.37(b)(13)

Time Frame and milestones for implementation of State Plan.

Reference--Part 227.37(b)(14)

Plans to evaluate program activities including an evaluation component for each objective of the State Plan.

**GOAL 1: TO PROVIDE INFORMATION, MATERIALS, AND TRAINING IN NUTRITION EDUCATION FOR STUDENTS IN SCHOOLS AND CHILD CARE INSTITUTIONS.**

OBJECTIVE	EVALUATION	ACTIVITIES (MILESTONES)	TIME FRAME AND MILESTONES													
			1989			1990										
			OCT	NOV	DEC	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP		
a. Provide nutrition education mini-grants to selected school systems and child care sponsors statewide.	a. Written documentation including applications, agreements, correspondence, etc.	a.1. Continue to monitor FY89 mini grants. a.2. Develop application procedures. a.3. Send out application packages. a.4. Evaluate applications and award grants. a.5. Implement/monitor mini grants.														
b. Participate in educational groups' meetings and conferences as program presentors and/or exhibitors.	b. Written correspondence regarding NET participation; copies of conference programs, copies of training report.	b.1. Contact groups regarding NET b.2. Prepare presentation or exhibit. b.3. Participate in conference. b.4. Evaluate effectiveness of NET participation.														
c. Furnish teachers with printed nutrition education materials, available through the FNS Library, for use with students.	c. Records of distribution of resource materials.	c.1. Fill requests for resource materials. c.2. Assist teachers requesting resource materials.														
d. Coordinate annual nutrition poster contest in schools statewide.	d. Letters announcing contest and announcing winners.	d.1. Mail out announcements for contest. d.2. Arrange for prizes. d.3. Receive posters. d.4. Hold judging. d.5. Notify schools about winners.														



GOAL 2: TO PROVIDE INFORMATION, MATERIALS, AND TRAINING IN FOOD SYSTEMS MANAGEMENT, CHILD NUTRITION PROGRAMS, AND NUTRITION EDUCATION TO FOOD SERVICE PERSONNEL IN SCHOOL SYSTEMS, CHILD CARE INSTITUTIONS, AND PRIVATE SCHOOLS.

OBJECTIVE	EVALUATION	ACTIVITIES (MILESTONES)	TIME FRAME AND MILESTONES													
			1989			1990										
			DCT	NOV	DEC	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP		
a. Coordinate conferences for supervisory staffs of school systems and other agencies participating in child nutrition programs.	a. Copies of correspondence regarding arrangements for conferences; copies of conference programs.	a.1. Handle arrangements for annual School Food Service Spring Conference.	←-----→													
		a.2. Handle arrangements for annual Child Care Food Program Spring Conference.	←-----→													
		a.3. Handle arrangements for annual Family Day Care Home Spring Conference.	←-----→													
		a.4. Handle arrangements for School Food Service Update Conference.									←-----→					
		a.5. Handle arrangements for Family Day Care Home Update Conference.									←-----→					
b. Furnish Child Care Food Program and School Food Service staffs with both audiovisual and printed materials available through the FNS Library.	b. Documentation of distribution of revised guide; records of use of resource materials.	b.1. Fill requests for resource materials.	←-----→													
		b.2. Assist persons requesting resource materials.	←-----→													
c. Administer the Louisiana School Food Service Training Program.	c. Copies of correspondence to School Food Authorities regarding the training program, records of tests administered and graded, records of attendance at classes, test scores.	c.1. Administer the Phases I and II examinations at six sites state-wide twice a year, including preparing tests, making arrangements, grading tests, notifying persons of test results.	←-----→								←-----→					
		c.2. Administer Phase III examination for persons who failed it the previous summer.	←-----→													
		c.3. Administer Phase III of the training program including registration of trainees, making all arrangements for training (including scheduling of class, instructor assignment, handout materials, etc.), serve as coordinator and as instructor.										←-----→				
		c.4. Notify SFA of results of Phase III exam.											←-----→			
		c.5. Field test new Phases I and II items and analyze results to increase item pool. Work with test consultant.	←-----→													
d. Develop the Phase III Examination for the Louisiana School Food Service Training Program.	d. Copies of correspondence with test development consultant and with School Food Authorities participating in development, finalized test item pool.	d.1. Work with test consultant.									←-----→					
		d.2. Serve as coordinator for all aspects of test development, including blueprint development, item writing, item review, field testing, field test analysis, choosing best items, and score setting procedures.									←-----→					
e. Develop mechanism to disseminate Louisiana's Training Program out of state.	e. Copies of documentation setting up procedure.	e.1. Develop mechanism.	←-----→													
		e.2. Secure approval of mechanism.									←-----→					
		e.3. Implement mechanism.											←-----→			
f. Participate in training for sponsoring agencies of the Summer Food Service Program for Children.	f. Meeting agenda, training report, record of materials disseminated.	f.1. Prepare for training.	←-----→													
		f.2. Conduct training.									←-----→					
		f.3. Disseminate materials.											←-----→			
g. Administer the School Food Service Manager Certification Program.	g. Manager Certification Program files which includes copies of correspondence, diplomas, transcripts, and certification number.	g.1. Maintain record of training for all trainees.	←-----→													
		g.2. Review diplomas and college transcripts for all trainees.	←-----→									←-----→				
		g.3. Issue certification numbers to managers.	←-----→											←-----→		
		g.4. Process request for temporary certification.	←-----→											←-----→		
		g.5. Review school system labor budgets to verify manager certification.	←-----→											←-----→		
		g.6. Computerize the recordkeeping system for this program.	←-----→													

**GOAL 3: TO ADMINISTER THE FNS LIBRARY TO ENABLE MORE EFFECTIVE UTILIZATION OF NUTRITION EDUCATION AND TRAINING RESOURCES.**

OBJECTIVE	EVALUATION	ACTIVITIES (MILESTONES)	TIME FRAME AND MILESTONES															
			1989			1990												
			OCT	NOV	DEC	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP				
a. Facilitate the usage of nutrition education and training resources of the FNS Library by teachers and food service personnel statewide.	a. Records of use of audiovisual materials.	a.1. Fill requests; mail audiovisual materials and check in after use; mail printed materials; maintain records of records disseminated.	<----->															
b. Maintain records of all of Bureau's training activities, including materials disseminated.	b. Documentation of use; monthly training report.	b.1. FNS staff submit training reports to NET. b.2. Compile monthly report of bureau activities. b.3. Disseminate report. b.4. Adjust inventory of printed material and produce report.	<----->															
c. Obtain additional audiovisual and printed materials for Library.	c. Copies of purchase orders; records showing addition of materials to Library; presence of new materials in Library.	c.1. Preview materials for possible purchase. c.2. Prepare purchase order requisitions and other necessary paperwork. c.3. Check in materials upon receipt. c.4. Enter new materials into library system.	<----->															

**GOAL 4: TO CREATE AN AWARENESS WITHIN BOTH THE PUBLIC AND RELATED PROFESSIONAL GROUPS OF THE IMPORTANCE OF GOOD NUTRITION AND OF THE NUTRITION EDUCATION AND TRAINING PROGRAM, AND OTHER CHILD NUTRITION PROGRAMS.**

OBJECTIVE	EVALUATION	ACTIVITIES (MILESTONES)	TIME FRAME AND MILESTONES															
			1989			1990												
			OCT	NOV	DEC	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP				
a. Participate in the activities of the Louisiana State Nutrition Council.	a. Records of meetings attended and of activities.	a.1. Attend regular meetings of the Council. a.2. Coordinate annual poster contest.	<->	<->	<->	<->	<->	<->	<->	<->	<->	<->	<->	<->	<->	<->	<->	<->
b. Publish at least two articles and/or make presentations about the NET Program.	b. Copies of prepared and published articles; copies of evaluation forms of presentations.	b.1. Prepare two articles or presentations regarding programs. b.2. Submit articles for publication and/or give presentations.	<----->															

**VII. PROGRAM EVALUATION**

Reference--Part 227.31

The state agency shall conduct formal evaluations of program activities at least annually.

Section IV, Goals, Objectives, Evaluation and Time Frames of this State Plan will be used as the tool to evaluate FY '90 and '91 NET program activities. There will be two phases of this evaluation. About halfway into each fiscal year, the NET Coordinator and staff will make a critical review of activities and determine how closely activities are following the established timeframes. Any adjustments that are needed will necessitate a revision of that section of the State Plan. Near the conclusion of the fiscal year another review will be made to determine if activities have been completed, timelines followed, and evaluation information collected. This information will be used to evaluate the program for the year. If additional funding becomes available, a more intensive evaluation of activities will be developed.

**VIII. CIVIL RIGHTS**

Reference--Part 227.37(b)(16)

A description of the procedures used to comply with the requirements of Title VI of the Civil Rights Act of 1964, including racial and ethnic participation data collection, public notification procedures, and the annual civil rights compliance review process.

The Louisiana Department of Education hereby agrees that it will comply with Title VI of the Civil Rights Act of 1964

(P.L. 88-352) and all requirements imposed by the Regulations of the Department of Agriculture (7CFR Part 15), Department of Justice (28CFR Parts 42 and 50), and FNS directives or regulations issued pursuant to that Act. The following requirements will be met:

**A. Written Assurance**

o Civil rights assurance shall be incorporated into all agreements between State agencies and schools, institutions and contractors (grantees), and all materials produced with NET funding.

o All printed materials will contain a statement of assurance that the program is an Equal Opportunity Program available to all eligible individuals regardless of race, color, national origin, age, sex, or handicap. A sample nondiscrimination statement is given below:

**AN EQUAL OPPORTUNITY PROGRAM**--The Nutrition Education and Training Program is available to all eligible individuals regardless of race, color, national origin, age, sex, or handicap. Persons who believe they have been denied equal opportunity for participation should write to the Administrator, Food and Nutrition Service, U.S. Department of Agriculture, 3101 Park Center Drive, Alexandria, Virginia 23302.

**B. Public Notification**

o All eligible persons, including minorities and women, shall be informed of the NET Program and their participation rights.

◦ Non-English-Speaking Provision--In certain locations a significant number or proportion of the population eligible to be served may need service or information in a language other than English in order to be informed of, or to participate in the program. In such locations, the Louisiana Department of Education shall take reasonable steps to provide bilingual staff and/or informational material in the appropriate language to such persons.

◦ State agencies are required to provide information on the USDA nondiscrimination policy and procedure for filing a complaint.

C. Complaints

◦ State agencies must maintain a system for receiving, tracking, and resolving complaints or discrimination.

◦ State agencies must establish grievance systems for processing complaints alleged on the basis of handicap and sex.

◦ Complaints alleged on the basis of race, color or national origin must be referred to the Administrator, Food and Nutrition Service, (FNS), for processing.

◦ Complaints alleged on the basis of age must be referred to FNS for transmittal to the Federal Mediation and Conciliation Service for mediation efforts.

D. Participation Data

◦ State agencies are required to determine how effectively minorities are being reached by the NET Program.

◦ State agencies must obtain minority participation data based on the following five categories of participants: American Indian/Alaskan Native, Asian/Pacific Islander, Black, Hispanic and White. The participation data and all such records should be available from schools and from training activities for possible review.

E. Site Selection

◦ Geographical areas selected and the criteria used in selecting the locations of the training activities must assure proportionate minority participation.

◦ Information describing how the selected location does not exclude minority participation in the program should be available.

F. Compliance Review and Monitoring

◦ The state is required to conduct periodic Civil Rights reviews of the local operational and administrative aspects of the program to determine compliance with the Civil Rights requirements.

◦ Some specific examples of prohibited discrimination and noncompliance with Civil Rights are:

1. Unequal distribution of benefits to participants in the program could occur when grants are awarded repeatedly to the same local agencies.

2. Conduct of nutrition education and training activities in a place, time, or manner that results in, or has the effect of, denying or limiting the benefits of the program on the basis of race, color, national origin, sex, age or handicap.

3. The selection of local agencies for participation in the program which has the effect of limiting the availability of the program benefits or services on the basis of race, color, national origin, sex, age, or handicap.

4. Failure to use materials or staff which provides non-English-speaking persons an equal opportunity for participation.

5. Failure to provide an opportunity for minorities to participate on advisory councils.

IX. BUDGET

Reference--Part 227.37(b)(18)

A budget detailing the use of Program funds

	FY '90
SALARY (2 Full-Time Education Program Managers ... and One Half-Time Secretary II)	\$61,236
FRINGE BENEFITS (10.9% of Above Salaries) .....	6,767
TRAVEL .....	3,000
PRINTING .....	1,500
LIBRARY ACQUISITIONS .....	1,500
SUPPLIES .....	800
POSTAGE .....	2,000
INDIRECT COST (3% of Above, Which Represents 50% of Indirect Cost Rate of 6%. The Remaining 50% is paid with State Funds) .....	2,305
NET SHARE OF CIVIL SERVICE EXPENSES .....	230
MINI-GRANTS TO SCHOOL SYSTEMS AND CHILD CARE SPONSORS .....	5,045
MAINTENANCE OF PROPERTY AND EQUIPMENT .	250
CONTRACT TO IMPLEMENT TRAINING PROGRAMS FOR FOOD SERVICE PERSONNEL .....	<u>2,000</u>
TOTAL BUDGET .....	<u><u>\$86,633</u></u>

X. FINANCIAL MANAGEMENT

Reference--Part 227.37(b)(19)

Description of the financial management system in accordance with 227.30(e)

The Louisiana Department of Education financial management system for the Nutrition Education and Training Program has been established to provide accurate program data including a breakdown of proposed categories of administrative costs and program costs, costs for the Louisiana Department of Education level staffing pattern for the NET Program, the source documentation of financial reports, the procedure by which the local agencies provide necessary financial information to the Louisiana Department of Education, and the method of reclaiming funds as a result of audit findings. The financial management system of program participants provides similar information for use in the Louisiana Department of Education's system.

Charges against the Nutrition Education and Training Program at the state level fall into designated cost categories. All personnel transactions are controlled by the Louisiana Department of Education personnel office. An individual can be assigned to the payroll only upon proper authorization by the personnel office. Personnel directly assigned to the NET Program are specifically identified in the personnel system and payroll charges are automatically coded against the program.

Travel costs are incurred by program employees in accordance with state travel regulations. All travel vouchers must be signed by the Education Bureau Administrator of the Bureau of Food and Nutrition Services before they are accepted as proper charges in the accounting system.

Supplies and materials are requested by way of a requisition which is approved by the Education Bureau Administrator. The requisition is then processed by the Purchasing Office of the Louisiana Department of Education according to prescribed state procedures. When goods are received, a voucher is approved by the Education Bureau Administrator, Bureau of Food and Nutrition Services, and forwarded to the Bureau of Accounting. There the payment is processed and charged to the NET Program.

The Louisiana Department of Education uses a financial management system (the FACS system). A project number has been assigned to the Nutrition Education and Training Program. The statewide computerized FACS system separates NET Program funds from all other state and federal funds according to

the project number. All types of expenditures, including salaries, travel expenses, supplies, and vendor (contractor) payments are identified.

Each Mini-Grant recipient is identified separately within the FACS system. Grant payments are initiated at the beginning of the grant period by the NET Coordinator and processed by the Bureau of Accounting. The final report for each Mini-Grant must include a complete list of expenditures, including copies of source documentation. If the grant recipient has not spent all of the money awarded in the grant, then the unspent amount must be returned to the Department of Education. All grant recipients must maintain source documentation of all expenditures on file. Each agreement contains a budget outlining allowable expenditures. Grant recipients must have written permission of the Louisiana Department of Education to make expenditures not included in the approved budget or to switch funds between budget categories. If an audit determines that funds must be reclaimed from a grant recipient, a letter is sent to that grant recipient notifying him of the amount to be paid. When it is received, the check is forwarded to the Bureau of Accounting where proper adjustment of the NET Program account is made.

#### XI. MANAGEMENT EVALUATION AND REVIEW

Reference--Part 227.37(b)(20)

Description of the management evaluation and review procedures established in accordance with 227.31(b).

A management evaluation and review system for the Nutrition Education and Training Program has been established. This is the responsibility of the Coordinator and the Nutrition Program Managers of the NET Section.

In order to award NET Mini-Grants, an application package is sent to all school systems and child care sponsors. All applications received before the deadline are evaluated by a team of evaluators. This application specifies project goals and objectives, evaluation component, budget, time frame for activities, personnel, and all other conditions to which the contractor agrees.

There is an agreement between the Louisiana Department of Education and each entity receiving a Mini-Grant. The application and agreement form the basis for the management review process.

Each project is assigned to a NET staff member who is responsible for periodic review of that project. Efforts are made by the NET staff to conduct a site visit of each project during the funding period. Visits and telephone contacts are used to determine degrees of accomplishment of program objectives and to provide aid whenever necessary. A site visit could include observation of training teachers or food service personnel or activities conducted in the classroom or cafeteria.

At the end of the project period, a final report must be submitted to the state which provides a summary of the project, including a complete list of expenditures. It is felt that a thorough management evaluation system of program participants will enable the assessment of the effectiveness of the NET Program on a statewide level.

#### XII. SIGNATURES

This State Plan for the Nutrition Education and Training Program projected by the Louisiana State Department of Education has been reviewed and any comments or recommendations become a part of the Plan.

Em Tampke  
Executive Director

## DECLARATION OF EMERGENCY

### Department of Insurance Office of the Commissioner

The United States Congress has implemented significant changes in the Medicare insurance program. As a result of these changes in federal law, the Louisiana Department of Insurance proposed corresponding changes in Louisiana law in the 1989 Regular Legislative Session. The legislature passed and the governor signed into law Act 447 which embodies the necessary changes in the Louisiana Insurance Code.

The Health Care Financing Administration of the U.S. Department of Health and Human Services has the responsibility of monitoring the Medicare supplement regulatory program. This office has established minimum requirements for regulations and rules. The time frame for implementation of these regulations and rules have created this emergency in Louisiana.

These emergency regulations and rule shall be effective on Friday, September 1, 1989, and shall continue in effect for 120 days or until regular promulgation of the regulations and rule.

#### RULE 3A

### GOVERNING ADVERTISEMENTS OF MEDICARE SUPPLEMENT INSURANCE WITH INTERPRETIVE GUIDELINES

#### Preamble

The proper expansion of Medicare supplement insurance coverage is in the public interest. Appropriate advertising can broaden the distribution of insurance among those eligible for Medicare. Advertising can increase the awareness of beneficial forms of coverage and thereby encourage product competition. Advertising can also provide the insurance-buying public with the means by which it can compare the advantages of competing forms of coverage.

Insurance advertising has become increasingly important in the years since the 1956 NAIC Rules Governing Advertisement of Accident and Sickness Insurance were developed. The increasing availability of coverage under group insurance plans and the advent of governmental benefit programs have complicated the decisions the insurance-buying public must make to avoid duplication of benefits and gaps in coverage. The consequent need for detailed information about insurance products is reflected in the requirements for disclosure established by the 1972 NAIC Rules (as amended) Governing Advertisements of Accident and Sickness Insurance. This need for detailed disclosure is especially critical in helping to assure that individuals eligible for Medicare receive full and truthful advertising for Medicare supplement insurance. The NAIC has, therefore, determined that, while the 1972 NAIC Rules (as amended) Governing Advertisements of Accident and Sickness Insurance did address Medicare supplement insurance, these new rules and interpretive guidelines addressed solely to Medicare supplement insurance advertising are needed to replace the previous 1972 rules and interpretive guidelines with respect to Medicare supplement insurance advertising.

Although modern insurance advertising patterns much of its design after advertising for other goods and service, the uniqueness of insurance as a product must always be kept in mind in developing advertising. This is particularly true with respect to Medicare supplement insurance advertising. By the time an insured discovers that a particular insurance product is unsuitable for his needs, it may be too late for him to return to the

marketplace to find a more satisfactory product.

Hence, the insurance-buying public should be afforded a means by which it can determine, in advance of purchase, the desirability of the competing insurance products proposed to be sold. This can be accomplished by advertising which accurately describes the advantages and disadvantages of the insurance product without either exaggerating the benefits or minimizing the limitations. Properly designed advertising can provide such description and disclosure without sacrificing the sales appeal which is essential to its usefulness to the insurance-buying public and the insurance business. The purpose of the new NAIC rules governing advertisements of Medicare supplement insurance is to establish minimum criteria to assure proper and accurate description and disclosure.

#### Section 1. Purpose

The purpose of this rule is to provide prospective purchasers with clear and unambiguous statements in the advertisements of Medicare supplement insurance; to assure the clear and truthful disclosure of the benefits, limitations and exclusions of policies sold as Medicare supplement insurance. This purpose is intended to be accomplished by the establishment of guidelines and permissible and impermissible standards of conduct in the advertising of Medicare supplement insurance in a manner which prevents unfair, deceptive and misleading advertising and is conducive to accurate presentation and description to the insurance-buying public through the advertising media and material used by the insurance agents and companies.

#### Section 2. Authority

These rules governing advertisement of Medicare supplement insurance are promulgated by authority of R.S. 49:950 *et seq.*, as amended, being the Louisiana Administrative Procedure Act.

#### Section 3. Applicability

A. This rule shall apply to any "advertisement" of Medicare supplement insurance as that term is defined herein, unless otherwise specified in these rules, which the insurer knows or reasonably should know is intended for presentation, distribution or dissemination in this state when such presentation, distribution or dissemination is made either directly or indirectly by or on behalf of an insurer, agent, broker, producer or solicitor, as these terms are defined in the Insurance Code of this state.

B. Every insurer shall establish and at all times maintain a system of control over the content, form and method of dissemination of all of its Medicare supplement insurance advertisements. All such advertisements, regardless of by whom written, created, designed or presented, shall be the responsibility of the insurers benefiting directly or indirectly from their dissemination.

C. Advertising materials which are reproduced in quantity shall be identified by form numbers or other identifying means. Such identification shall be sufficient to distinguish an advertisement from any other advertising materials, policies, applications or other materials used by the insurer.

#### Section 4. Definitions

A. 1. An advertisement for the purpose of this rule shall include:

a. printed and published material, audiovisual material and descriptive literature used by or on behalf of an insurer in direct mail, newspapers, magazines, radio scripts, TV scripts, billboards and similar displays;

b. descriptive literature and sales aids of all kinds issued by an insurer, agent, producer, broker, or solicitor for presentation to members of the insurance-buying public, including, but not limited to, circulars, leaflets, booklets, depictions, illustra-

tions, form letters and lead generating devices of all kinds as herein defined; and

c. prepared sales talks, presentations and material for use by agents, brokers, producers, and solicitors whether prepared by the insurer of the agent, broker, producer, or solicitor.

2. The definition of "advertisement" includes advertising material included with a policy when the policy is delivered and material used in the solicitation of renewals and reinstatements.

3. The definition of "advertisement" does not include:

a. material to be used solely for the training and education of an insurer's employees, agents or brokers;

b. material used in-house by insurers;

c. communications within an insurer's own organization not intended for dissemination to the public;

d. individual communications of a personal nature with current policyholders other than material urging such policyholders to increase or expand coverages;

e. correspondence between a prospective group or blanket policyholder and an insurer in the course of negotiating a group or blanket contract;

f. court approved material ordered by a court to be disseminated to policyholders; or

g. a general announcement from a group or blanket policyholder to eligible individuals on an employment or membership list that a contract or program has been written or arranged; provided, the announcement must clearly indicate that it is preliminary to the issuance of a booklet.

B. *Medicare Supplement Insurance* means a group or individual policy of accident and sickness insurance or a subscriber contract of hospital and medical service associations or health maintenance organizations which is advertised, marketed or designed primarily as a supplement to reimbursements under Medicare for the hospital, medical or surgical expenses of persons eligible for Medicare by reason of age.

C. *Certificate* means, for the purpose of this rule, any certificate issued under a group Medicare supplement policy, which certificate has been delivered or issued for delivery in this state.

D. *Insurer* for the purpose of this rule shall include any individual, corporation, association, partnership, reciprocal exchange, inter-insurer, Lloyds, fraternal benefit society, health maintenance organization, hospital service corporation, medical service corporation, prepaid health plan and any other legal entity which is defined as an "insurer" in the Insurance Code of this state and is engaged in the advertisement of itself, or Medicare supplement insurance.

E. *Exception* for the purpose of this rule shall mean any provision in a policy whereby coverage for a specified hazard is entirely eliminated; it is a statement of a risk not assumed under the policy.

F. *Reduction* for the purpose of this rule shall mean any provision which reduces the amount of the benefit; a risk of loss is assumed but payment upon the occurrence of such loss is limited to some amount or period less than would be otherwise payable had such reduction not been used.

G. *Limitation* for the purpose of this rule shall mean any provision which restricts coverage under the policy other than an exception or a reduction.

H. *Institutional Advertisement* for the purpose of this rule shall mean an advertisement having as its sole purpose the promotion of the reader's, viewer's, or listener's interest in the concept of Medicare supplement insurance, or the promotion of the insurer as a seller of Medicare supplement insurance.

I. *Invitation to Inquire* for the purpose of this rule shall mean an advertisement having as its objective the creation of a desire to inquire further about Medicare supplement insurance which is limited to a brief description of coverage, and which shall contain a provision in the following or substantially similar form:

“This policy has (exclusions) (limitations) (reductions of benefits) (terms under which the policy may be continued in force or discontinued). For costs and complete details of the coverage, call (or write) your insurance agent or the company (whichever is applicable)”.

J. *Invitation to Contract* for the purpose of this rule shall mean an advertisement which is neither an institutional advertisement nor an invitation to inquire.

K. *Person* for the purpose of this rule shall mean any natural person, association, organization, partnership, trust, group, discretionary group, corporation or any other entity.

L. *Medicare* means “The Health Insurance for the Aged Act, Title XVIII of The Social Security Amendments of 1965 as then constituted or later amended,” or Title I, Part I, of Public Law 89-97, as enacted by the Eighty-Ninth Congress of the United States of America, and popularly known as the “Health Insurance for the Aged Act, as then constituted and any later amendments or substitutes thereof” or words of similar import.

M. *Lead-Generating Device*, for the purpose of this rule shall mean any communication directed to the public which, regardless of form, content or stated purpose is intended to result in the compilation or qualification of a list containing names and other personal information to be used to solicit residents of this state for the purchase of Medicare supplement insurance.

#### Section 5. Method of Disclosure of Required Information

All information required to be disclosed by this rule shall be set out conspicuously and in close conjunction with the statements to which such information relates or under appropriate captions of such prominence that it shall not be minimized, rendered obscure or presented in an ambiguous manner or fashion or intermingled with the context of the advertisement so as to be confusing or misleading.

#### Section 6. Form and Content of Advertisements

A. The format and content of a Medicare supplement insurance advertisement shall be sufficiently complete and clear to avoid deception or the capacity or tendency to mislead or deceive. Whether an advertisement has a capacity or tendency to mislead or deceive shall be determined by the department from the overall impression that the advertisement may be reasonably expected to create upon a person of average education or intelligence, within the segment of the public to which it is directed.

B. Advertisements shall be truthful and not misleading in fact or in implication. Words or phrases whose meanings are clear only by implication or by the consumer’s familiarity with insurance terminology shall not be used.

C. An insurer must clearly identify its Medicare supplement insurance policy as an insurance policy. A policy trade name must be followed by the words... “Insurance Policy” or similar words clearly identifying the fact that an insurance or health benefits product (in the case of health maintenance organizations, prepaid health plans and other direct service organizations) is being offered.

D. No insurer, agent, broker, producer, solicitor or other person shall solicit a resident of this state for the purchase of Medicare supplement insurance in connection with or as the result of the use of any advertisement by such person or any

other person, where the advertisement:

1. Contains any misleading representation or misrepresentations, or is otherwise untrue, deceptive or misleading with regard to the information imparted, the status, character or representative capacity of such person or the true purpose of the advertisement; or

2. Otherwise violates the provisions of these rules.

E. No insurer, agent, broker, solicitor or other person shall solicit residents of this state for the purchase of Medicare supplement insurance through the use of a true or fictitious name which is deceptive or misleading with regard to the status, character, or proprietary or representative capacity of such person or the true purpose of the advertisement.

#### Section 7. Advertisements of Benefits, Losses Covered or Premiums Payable

##### A. Deceptive Words, Phrases or Illustrations Prohibited

1. No advertisement shall omit information or use words, phrases, statements, references or illustrations if the omission of such information or use of such words, phrases, statements, references or illustrations has the capacity, tendency or effect of misleading or deceiving purchasers or prospective purchasers as to the nature or extent of any policy benefit payable, loss covered or premium payable. The fact that the policy offered is made available to a prospective insured for inspection prior to consummation of the sale or an offer is made to refund the premium if the purchaser is not satisfied, does not remedy misleading statements.

2. No advertisements shall contain or use words or phrases such as “all”, “full”, “complete”, “comprehensive”, “unlimited”, “up to”, “as high as”, “this policy will help fill some of the gaps that Medicare and your present insurance leave out”, “this policy pays all that Medicare doesn’t” or similar words and phrases, in a manner which exaggerates any benefit beyond the terms of the policy.

3. An advertisement which also is an invitation to join an association, trust, or discretionary group must solicit insurance coverage on a separate and distinct application which requires separate signature for each application. The insurance program must be presented so as not to mislead or deceive the prospective members that they are purchasing insurance as well as applying for membership, if that is the case.

4. An advertisement shall not contain descriptions of policy limitations, exceptions or reductions, worded in a positive manner to imply that it is a benefit, such as describing a waiting period as a “benefit builder” or stating “even pre-existing conditions are covered after 6 months”. Words and phrases used in an advertisement to describe such policy limitations, exceptions and reductions shall fairly and accurately describe the negative features of such limitations, exceptions and reductions of the policy offered.

5. An advertisement of Medicare supplement insurance sold by direct response shall not state or imply that “because no insurance agent will call and no commissions will be paid to ‘agents’ that it is a low cost plan” or use other similar words or phrases because the cost of advertising and servicing such policies is a substantial cost in marketing by direct response.

##### B. Exceptions, Reductions and Limitations

1. An advertisement which is an invitation to contract shall disclose those exceptions, reductions and limitations affecting the basic provisions of the policy.

2. When a policy contains a waiting, elimination, probationary or similar time period between the effective date of the policy and the effective date of coverage under the policy or a

time period between the date a loss occurs and the date benefits begin to accrue for such loss, an advertisement which is subject to the requirements of the preceding paragraph shall disclose the existence of such periods.

3. An advertisement shall not use the words "only", "just", "merely", "minimum", or similar words or phrases to describe the applicability of any exceptions and reductions, such as: "This policy is subject to the following minimum exceptions and reductions."

#### C. Pre-existing Conditions

1. An advertisement which is an invitation to contract shall, in negative terms, disclose the extent to which any loss is not covered if the cause of such loss is traceable to a condition existing prior to the effective date of the policy. The use of the term "pre-existing condition" without an appropriate definition or description shall not be used.

2. When a Medicare supplement insurance policy does not cover losses resulting from pre-existing conditions, no advertisement of the policy shall state or imply that the applicant's physical condition or medical history will not affect the issuance of the policy or payment of a claim thereunder. This rule prohibits the use of the phrase "no medical examination required" and phrases of similar import, but does not prohibit explaining "automatic issue". If an insurer requires a medical examination for a specified policy, the advertisement shall disclose that a medical examination is required.

3. When an advertisement contains an application form to be completed by the applicant and returned by mail, such application form shall contain a question or statement which reflects the pre-existing condition provisions of the policy immediately preceding the blank space for the applicant's signature. For example, such an application form shall contain a question or statement substantially as follows:

Do you understand that this policy will not pay benefits during the first six months after the issue date for a disease or physical condition for which medical advice was given or treatment was recommended by or received from a physician within six months before the policy issue date? YES

Or substantially the following statement:

I understand that the policy applied for will not pay benefits for any loss incurred during the first six months after the issue date due to a disease or physical condition for which I received medical advice or for which treatment was recommended by or received from a physician within six months before the issue date.

#### Section 8. Necessity for Disclosing Policy Provisions Relating to Renewability, Cancellability and Termination

An advertisement which is an invitation to contract shall disclose the provisions relating to renewability, cancellability and termination and any modification of benefits, losses covered or premiums because of age or for other reasons, in manner which shall not minimize or render obscure the qualifying conditions.

#### Section 9. Testimonials or Endorsements by Third Parties

A. Testimonials and endorsements used in advertisements must be genuine, represent the current opinion of the author, be applicable to the policy advertised and be accurately reproduced. The insurer, in using a testimonial or endorsement, makes as its own all of the statements contained therein, and the advertisement, including such statement, is subject to all the provisions of these rules. When a testimonial or endorsement is used more than one year after it was originally given, a confirmation must be obtained.

B. A person shall be deemed a "spokesperson" if the

person making the testimonial or endorsement:

1. has a financial interest in the insurer or a related entity as a stockholder, director, officer, employee or otherwise; or

2. has been formed by the insurer, is owned or controlled by the insurer, its employees, or the person or persons who own or control the insurer; or

3. has any person in a policy-making position who is affiliated with the insurer in any of the above described capacities; or

4. is in any way directly or indirectly compensated for making a testimonial or endorsement.

C. The fact of a financial interest or the proprietary or representative capacity of a spokesperson shall be disclosed in an advertisement and shall be accomplished in the introductory portion of the testimonial or endorsement in the same form and with equal prominence thereto. If a spokesperson is directly or indirectly compensated for making a testimonial or endorsement, such fact shall be disclosed in the advertisement by language substantially as follows: "Paid Endorsement". The requirement of this disclosure may be fulfilled by use of the phrase "Paid Endorsement" or words of similar import in a type style and size at least equal to that used for the spokesperson's name or the body of the testimonial or endorsement; whichever is larger. In the case of television or radio advertising, the required disclosure must be accomplished in the introductory portion of the advertisement and must be given prominence.

D. The disclosure requirement of this rule shall not apply where the sole financial interest or compensation of a spokesperson, for all testimonials or endorsements made on behalf of the insurer, consists of the payment of union "scale" wages required by union rules, and if the payment is actually for such "scale" for TV or radio performances.

E. An advertisement shall not state or imply that an insurer or a Medicare supplement insurance policy has been approved or endorsed by any individual, group of individuals, society, association, or other organizations, unless such is the fact, and unless any proprietary relationship between an organization and the insurer is disclosed. If the entity making the endorsement or testimonial has been formed by the insurer or is owned or controlled by the insurer or the person or persons who own or control the insurer, such fact shall be disclosed in the advertisement. If the insurer or an officer of the insurer formed or controls the association, or holds any policy-making position in the association, that fact must be disclosed.

F. When a testimonial refers to benefits received under a Medicare supplement insurance policy, the specific claim date, including claim number, date of loss, and other pertinent information shall be retained by the insurer for inspection for a period of four years or until the filing of the next regular report of examination of the insurer, whichever is the longer period of time. The use of testimonials which do not correctly reflect the present practices of the insurer or which are not applicable to the policy or benefit being advertised is not permissible.

#### Section 10. Use of Statistics

A. An advertisement relating to the dollar amount of claims paid, the number of persons insured, or similar statistical information relating to any insurer or policy shall not use irrelevant facts, and shall not be used unless it accurately reflects all of the relevant facts. Such an advertisement shall not imply that such statistics are derived from a policy advertised unless such is the fact, and when applicable to other policies or plans shall specifically so state.

1. An advertisement shall specifically identify the Medicare supplement insurance policy to which statistics relate and,

where statistics are given which are applicable to a different policy, it must be stated clearly that the data do not relate to the policy being advertised.

2. An advertisement using statistics which describe an insurer, such as assets, corporate structure, financial standing, age, product lines or relative position in the insurance business, may be irrelevant and, if used at all, must be used with extreme caution because of the potential for misleading the public. As a specific example, an advertisement for Medicare supplement insurance which refers to the amount of life insurance which the company has in force or the amounts paid out in life insurance benefits is not permissible unless the advertisement clearly indicates the amount paid out for each line of insurance.

B. An advertisement shall not represent or imply that claim settlements by the insurer are "liberal" or "generous", or use words of similar import, or state or imply that claim settlements are or will be beyond the actual terms of the contract. An unusual amount paid for a unique claim for the policy advertised is misleading and shall not be used.

C. The source of any statistics used in an advertisement shall be identified in such advertisement.

#### Section 11. Disparaging Comparisons and Statements

An advertisement shall not directly or indirectly make unfair or incomplete comparisons of policies or benefits or comparisons of non-comparable policies of other insurers, and shall not disparage competitors, their policies, services or business methods and shall not disparage or unfairly minimize competing methods of marketing insurance.

A. An advertisement shall not contain statements such as "no red tape" or "here is all you do to receive benefits".

B. Advertisements which state or imply that competing insurance coverages customarily contain certain exceptions, reductions or limitations not contained in the advertised policies are unacceptable unless such exceptions, reductions or limitations are contained in a substantial majority of such competing coverages.

C. Advertisements which state or imply that an insurer's premiums are lower or that its loss ratios are higher because its organizational structure differs from that of competing insurers are unacceptable.

#### Section 12. Jurisdictional Licensing and Status of Insurer

A. An advertisement which is intended to be seen or heard beyond the limits of the jurisdiction in which the insurer is licensed shall not imply licensing beyond those limits.

B. An advertisement shall not create the impression directly or indirectly that the insurer, its financial condition or status; or the payment of its claims; or the merits, desirability or advisability of its policy forms or kinds of plans of insurance are approved, endorsed or accredited by any division or agency of this state or the United States Government.

C. An advertisement shall not imply that approval, endorsement or accreditation of policy forms or advertising has been granted by any division or agency of the state or federal government. "Approval" of either policy forms or advertising shall not be used by an insurer to imply or state that a governmental agency has endorsed or recommended the insurer, its policies, advertising or its financial conditions.

#### Section 13. Identity of Insurer

A. The name of the actual insurer shall be stated in all of its advertisements. The form number or numbers of the policy advertised shall be stated in an advertisement which is an invitation to contract. An advertisement shall not use a trade name, any insurance group designation, name of the parent company

of the insurer, name of a particular division of the insurer, service mark, slogan, symbol or other device which with or without disclosing the name of the actual insurer would have the capacity and tendency to mislead or deceive as to the true identity of the insurer.

B. No advertisement shall use any combination of words, symbols or physical materials which by their content, phraseology, shape, color or other characteristics are so similar to combination of words, symbols or physical materials used by agencies of the federal government or of this state, or otherwise appear to be of such a nature that it tends to confuse or mislead prospective insureds into believing that the solicitation is in some manner connected with an agency of the municipal, state or federal government.

C. Advertisements, envelopes or stationery which employ words, letters, initials, symbols or other devices which are so similar to those used by governmental agencies or other insurers are not permitted if they may lead the public to believe:

1. that the advertised coverages are somehow provided by or are endorsed by such governmental agencies or such other insurers;

2. that the advertiser is the same as, is connected with or is endorsed by such governmental agencies or such other insurers.

D. No advertisement shall use the name of a state or political subdivision thereof in a policy name or description.

E. No advertisement in the form of envelopes or stationery of any kind may use any name, service mark, slogan, symbol or any device in such a manner that implies that the insurer or the policy advertised, or that any agent who may call upon the consumer in response to the advertisement is connected with a governmental agency, such as the Social Security Administration.

F. No advertisement may incorporate the word "Medicare" in the title of the plan or policy being advertised unless, wherever it appears, said word is qualified by language differentiating it from Medicare. Such an advertisement, however shall not use the phrase "\_\_\_\_\_ Medicare Department of the \_\_\_\_\_ Insurance Company", or language of similar import.

G. No advertisement shall be used that fails to include the disclaimer to the effect of "Not connected with or endorsed by the U.S. Government or the federal Medicare program".

H. No advertisement may imply that the reader may lose a right or privilege or benefit under federal, state or local law if he fails to respond to the advertisement.

I. The use of letter, initials, or symbols of the corporate name or trademark that would have the tendency or capacity to mislead or deceive the public as to the true identity of the insurer is prohibited unless the true, correct and complete name of the insurer is in close conjunction and in the same size type as the letter, initials or symbols of the corporate name or trademark.

J. The use of the name of an agency or "\_\_\_\_\_ Underwriters" or "\_\_\_\_\_ Plan" in type, size and location so as to have the capacity and tendency to mislead or deceive as to the true identity of the insurer is prohibited.

K. The use of an address so as to mislead or deceive as to true identity of the insurer, its location or licensing status is prohibited.

L. No insurer may use in the trade name of its insurance policy, any terminology or words so similar to the name of a governmental agency or governmental program as to have the tendency to confuse, deceive or mislead the prospective pur-



chaser.

M. All advertisements used by agents, producers, brokers or solicitors of an insurer must have prior written approval of the insurer before they may be used.

N. An agent who makes contact with a consumer, as a result of acquiring that consumer's name from a lead generating device must disclose such fact in the initial contact with the consumer.

#### Section 14. Group or Quasi-Group Implications

A. An advertisement of a particular policy shall not state or imply that prospective insureds become group or quasi-group members covered under a group policy and as such enjoy special rates or underwriting privileges, unless such is the fact.

B. This regulation prohibits the solicitation of a particular class, such as governmental employees, by use of advertisements which state or imply that their occupational status entitles them to reduced rates on a group or other basis when, in fact, the policy being advertised is sold only on an individual basis at regular rates.

#### Section 15. Introductory, Initial or Special Offers

A. 1. An advertisement of an individual policy shall not directly or by implication represent that a contract or combination of contracts is an introductory, initial or special offer, or that applicants will receive substantial advantages not available at a later date, or that the offer is available only to a specified group of individuals, unless such is the fact. An advertisement shall not contain phrases describing an enrollment period as "special", "limited", or similar words or phrases when the insurer uses such enrollment periods as the usual method of advertising Medicare supplement insurance.

2. An enrollment period during which a particular insurance product may be purchased on an individual basis shall not be offered within this state unless there has been a lapse of not less than 3 months between the close of the immediately preceding enrollment period for the same product and the opening of the enrollment period. The advertisement shall indicate the date by which the applicant must mail the application, which shall be not less than ten days and not more than forty days from the date that such enrollment period is advertised for the first time. This rule applies to all advertising media, i.e., mail, newspapers, radio, television, magazines and periodicals, by any one insurer. It is not applicable to solicitations of employees or members of a particular group or association which otherwise would be eligible under specific provisions of the Insurance Code for group, blanket or franchise insurance. The phrase "any one insurer" includes all the affiliated companies of a group of insurance companies under common management or control.

3. This rule prohibits any statement or implication to the effect that only a specific number of policies will be sold, or that a time is fixed for the discontinuance of the sale of the particular policy advertised because of special advantages available in the policy, unless such is the fact.

4. The phrase "a particular insurance product" in Paragraph (2) of this Section means an insurance policy which provides substantially different benefits than those contained in any other policy. Different terms of renewability; an increase or decrease in the dollar amounts of benefits; an increase or decrease in any elimination period or waiting period from those available during an enrollment period for another policy shall not be sufficient to constitute the product being offered as a different product eligible for concurrent or overlapping enrollment periods.

B. An advertisement shall not offer a policy which utilizes a reduced initial premium rate in a manner which overempha-

sizes the availability and the amount of the initial reduced premium. When an insurer charges an initial premium that differs in amount from the amount of the renewal premium payable on the same mode, the advertisement shall not display the amount of the reduced initial premium either more frequently or more prominently than the renewal premium and both the initial reduced premium and the renewal premium must be stated in juxtaposition in each portion of the advertisement where the initial reduced premium appears. The term "juxtaposition" means side by side or immediately above or below.

C. Special awards, such as a "safe driver award" shall not be used in connection with advertisements of Medicare supplement insurance.

#### Section 16. Statements About an Insurer

An advertisement shall not contain statements which are untrue in fact, or by implications misleading, with respect to the assets, corporate structure, financial standing, age or relative position of the insurer in the insurance business. An advertisement shall not contain a recommendation by any commercial rating system unless it clearly indicates the purpose of the recommendation and the limitations of the scope and extent of the recommendation.

#### Section 17. Enforcement Procedures

A. Advertising File: Each insurer shall maintain at its home or principal office a complete file containing every printed, published or prepared advertisement of its individual policies and typical printed, published or prepared advertisements of its blanket, franchise and group policies hereafter disseminated in this or any other state, whether or not licensed in such other state with a notation attached to each such advertisement which shall indicate the manner and extent of distribution and the form number of any policy advertised. Such file shall be available for inspection by this department. All such advertisements shall be maintained in said file for a period of either four years or until the filing of the next regular report of examination of the insurer, whichever is the longer period of time.

B. Certificate of Compliance: Each insurer required to file an annual statement which is now or which hereafter becomes subject to the provisions of these rules must file with this department, with its annual statement, a certificate of compliance executed by an authorized officer of the insurer wherein it is stated that, to the best of his knowledge, information and belief, the advertisements which were disseminated by the insurer during the preceding statement year complied or were made to comply in all respects with the provisions of these rules and the insurance laws of this state as implemented and interpreted by these rules.

#### Section 18. Severability Provision

If any section or portion of a section of these rules, or the applicability thereof to any person or circumstance is held invalid by a court, the remainder of the rules, or the applicability of such provision to other persons or circumstances, shall not be affected thereby.

#### Section 19. Effective Date

This rule shall be effective on the sixtieth day following formal adoption.

#### Appendix:

### INTERPRETIVE GUIDELINES FOR RULES GOVERNING ADVERTISEMENTS OF MEDICARE SUPPLEMENT INSURANCE

#### Guideline 1

Disclosure is one of the principal objectives of the rules and this Section states specifically that the rules shall assure truthful and adequate disclosure of all material and relevant in-

formation. The rules specifically prohibit some previous advertising techniques.

#### Guideline 2

These rules apply to any "advertisement" as that term is defined in Section 3, Subsections A, H, I and J unless otherwise specified in the rules. These rules apply to group, blanket and individual Medicare supplement insurance advertisements. Certain distinctions, however, are applicable to these categories. Among them is the level of conversance with insurance, a factor which is covered by Section 5A of the rules.

#### Guideline 3-A

The scope of the term "advertisement" extends to the use of all media for communications to the general public, to the use of all media for communications to specific members of the general public, and to use of all media for communications by agents, brokers, producers and solicitors.

#### Guideline 3-I

A "brief description of coverage" in an invitation to inquire may consist of an explanation of Medicare benefits, minimum benefits, standards for Medicare supplement policies, the manner in which the advertised Medicare supplement insurance policy supplements the benefits of Medicare and meets or exceeds the minimum benefit requirements. An invitation to inquire shall not refer to cost or the maximum dollar amount of benefits payable.

As with all Medicare supplement insurance advertisements, an invitation to inquire must not:

1. employ devices which are designed to create undue anxiety in the minds of the elderly or excite fear of dependence upon relatives or charity;
2. exaggerate the gaps in Medicare coverage;
3. exaggerate the value of the benefits available under the advertised policy;
4. otherwise violate the provisions of these rules.

#### Guideline 4

The rule permits the use of either of the following alternative methods of disclosure:

1. The first alternative provides for the disclosure of exceptions, limitations, reductions and other restrictions conspicuously and in close conjunction with the statements to which such information relates. This may be accomplished by disclosure in the description of the related benefits or in a paragraph set out in close conjunction with the description of policy benefits.

2. The second alternative provides for the disclosure of exceptions, limitations, reductions and other restrictions not in conjunction with the provision describing policy benefits but under appropriate captions of such prominence that the information shall not be minimized, rendered obscure or otherwise made to appear unimportant. The phrase "under appropriate captions" means that the title must be accurately descriptive of the captioned material. Appropriate captions include the following: "Exceptions," "Exclusions," "Conditions Not Covered," and "Exceptions and Reductions." The use of captions such as, or similar to, the following are not acceptable because they do not provide adequate notice of the significance of the material: "Extent of Coverage," "Only these Exclusions," or "Minimum Limitations."

In considering whether an advertisement complies with the disclosure requirements of this rule, the rule must be applied in conjunction with the form and content standards contained in Section 5.

#### Guideline 5-A

The rule must be applied in conjunction with Section 1 and 4 of the rules. The rule refers specifically to "format and

content" of the advertisement and the "overall" impression created by the advertisement. This involves factors such as, but not limited to, the size, color and prominence of type used to describe benefits. The word "format" means the arrangement of the text and the captions.

The rule requires distinctly different advertisements for publication in newspapers or magazines of general circulation, as compared to scholarly, technical or business journals and newspapers. Where an advertisement consists of more than one piece of material, each piece of material must, independent of all other pieces of material, conform to the disclosure requirements of this rule.

#### Guideline 5-B

The rule prohibits the use of incomplete statements and words or phrases which have the tendency or capacity to mislead or deceive because of the reader's unfamiliarity with insurance terminology.

Therefore, words, phrases and illustrations used in an advertisement must be clear and unambiguous. If the advertisement uses insurance terminology, sufficient description of a word, phrase or illustration shall be provided by definition or description in the context of the advertisement. As implied in Guideline 5-A, distinctly different levels of comprehension to the subscribers of various publications may be anticipated.

#### Guideline 6-A(1)

The rule prohibits the use of incomplete statements and words or phrases which create deception by omission or commission. The following examples are illustrations of the prohibitions created by the rule:

1. An advertisement which describes any benefits that vary by age must disclose the fact.

2. An advertisement that uses a phrase such as "no age limit" must disclose that premiums may vary by age or that benefits may vary by age if such is the case.

3. Advertisements, applications, requests for additional information and similar materials are unacceptable if they state or imply that the recipient has been individually selected to be offered insurance, or has had his eligibility for such insurance individually determined in advance, when in fact the advertisement is directed to all persons in a group or to all persons whose names appear on a mailing list.

4. Advertisements for group or franchise group plans which provide a common benefit or a common combination of benefits shall not imply that the insurance coverage is tailored or designed specifically for that group, unless such is the fact.

5. It is unacceptable to use terms such as "enroll" or "join" with reference to group or blanket insurance coverage when such is not the case.

6. An advertisement which states or implies immediate coverage is provided is unacceptable unless suitable administrative procedures exist so that the policy is issued within 15 working days after the application is received by the insurer.

7. Applications, request forms for additional information, and similar related materials are unacceptable if they resemble paper currency, bonds or stock certificates; or use any name, service mark, slogan, symbol or any device in such a manner that implies that the insurer or the policy advertised is connected with a government agency, such as the Social Security Administration or the Department of Health and Human Services.

8. An advertisement which uses the word "plan" without identifying it as a Medicare supplement insurance policy is not permissible.

9. An advertisement which implies in any manner that

the prospective insured may realize a profit from obtaining Medicare supplement insurance is not permissible.

10. An advertisement which fails to disclose any waiting or elimination periods is unacceptable.

11. Examples of benefits payable under a policy shall not disclose only maximum benefits unless such maximum benefits are paid for loss from common or probable illnesses or accidents, rather than exceptional or rare illnesses or accidents or periods of confinement for such exceptional or rare accidents or illnesses.

12. When a range of benefit levels is set forth in an advertisement, it must be made clear that the insured will receive only the benefit level written or printed in the policy selected and issued.

13. Advertisements for policies whose premiums are modest because of their limited amount of benefits shall not describe premiums as "low," "low-cost," "budget" or use qualifying words of similar import. This rule also prohibits the use of words such as "only" and "just" in conjunction with statements of premium amounts when used to imply a bargain.

14. An advertisement which exaggerates the effects of statutorily mandated benefits or required policy provisions or which implies that such provisions are unique to the advertised policy is unacceptable. For example, the phrase, "Money Back Guarantee," is an exaggerated description of the thirty-day right to examine the policy and is not acceptable.

15. An advertisement which implies that a common type of policy or a combination of common benefits is "new," "unique," "a bonus," "a breakthrough," or is otherwise unusual is unacceptable. Also, the addition of a novel method of premium payment to an otherwise common plan of insurance does not render it "new."

16. An advertisement may not omit the word "covered" when referring to benefits payable under its policy. Continued reference to "covered" is not necessary where this fact has been prominently disclosed in the advertisement.

17. An advertisement must state that benefits payable under the policy are based upon Medicare eligible expenses if such is the case.

18. An advertisement which fails to disclose that the definition or "hospital" does not include a nursing home, convalescent home or extended care facility, as the case may be, is unacceptable.

19. A television, radio, mail or newspaper advertisement, or lead generating device which is designed to produce leads either by use of a coupon, a request to write or to call the company, or a subsequent advertisement prior to contact must include information disclosing that an insurance agent may contact the applicant if such is the fact.

20. Advertisements for policies designed to supplement Medicare shall not employ devices which are designed to create undue anxiety in the minds of the elderly. Such phrases as "here is where most people over 65 learn about the gaps in Medicare," or "Medicare is great, but . . ." or which otherwise exaggerate the gaps in Medicare coverage are unacceptable. Phrases or devices which unduly excite fear of dependence upon relatives or charity are unacceptable. Phrases or devices which imply that long sickness or hospital stays are common among the elderly are unacceptable.

21. An advertisement which is an invitation to contract implying that the coverage is supplemental to Medicare, if it does not explain the manner in which it is supplemental to Medicare coverage, is not acceptable.

22. An advertisement which is an invitation to contract

for Medicare supplement insurance is unacceptable if the advertisement:

a. fails to disclose clear language which of the Medicare benefits the policy is not designed to supplement or if it otherwise implies that Medicare provides only those benefits which the policy is designed to supplement;

b. describes the in-patient hospital coverage of Medicare as "Medicare hospital," or "Medicare Part A" when the policy does not supplement the hospital or the psychiatric hospital benefits of Medicare Part A;

c. fails to describe clearly the operation of the Part or Parts of Medicare which the policy is designed to supplement; or

d. describes those Medicare benefits not supplemented by the policy in such a way as to minimize their importance relative to the Medicare benefits which are supplemented.

23. Advertisements which indicate that a particular coverage or policy is exclusively for "preferred risks" or a particular segment of the population, or that particular segments of the population are acceptable risks, when such distinctions are not maintained in the issuance of policies, are not acceptable.

24. Any advertisement which contains statements such as "anyone can apply," or "anyone can join," other than with respect to a guaranteed issue policy for which administrative procedures exist to assure that the policy is issued within a reasonable period of time after the application is received by the insurer, is unacceptable.

25. Any advertisement which uses any phrase or term such such as "here is all you do to apply," "simply," or "merely" to refer to the act of applying for a policy which in not a guaranteed issue policy is unacceptable unless it refers to the fact that the application is subject to acceptance or approval by the insurer.

26. Advertisements which state or imply that premiums will not be changed in the future are not acceptable unless the advertised policies so provide.

27. An advertisement which does not require the premium to accompany the application must not overemphasize that fact and must make the effective date of that coverage clear.

28. An advertisement which is an invitation to contract which fails to disclose the amount of any deductible and/or the percentage of any co-insurance factor is not acceptable.

#### Guideline 6-A(2)

The rule recognizes that certain words and phrases in advertising may have a tendency to mislead the public as to the extent of benefits under an advertised policy. Consequently, such terms (and those specified in the rules do not represent a comprehensive list but only examples) must be used with caution to avoid any tendency to exaggerate benefits and must not be used unless the statement is literally true in every instance. The use of the following phrases based on such terms or having the same effect must be similarly restricted: "pays hospital, surgical, etc., bills;" "pays dollars to offset the cost of medical care," "safeguards your standard of living," "pays full coverage," "pays complete coverage," or "pays for financial needs." Other phrases may or may not be acceptable depending upon the nature of the coverage being advertised.

The rule also prohibits words or phrases which exaggerate the effect of benefit payment on the insured's general well-being, such as "worry-free savings plan," "guaranteed savings," "financial peace of mind," and "you will never have to worry about hospital bills again."

Advertisements which are an invitation to contract for policies designed to supplement Medicare benefits are unacceptable

if they fail to disclose that no hospital confinement benefits will be payable for that portion of a Medicare benefit period for which Medicare pays all hospital confinement expenses (currently 60 days) other than the initial deductible if the policy so provides. The length of said period must be stated in days.  
Guidelines 6-A(4)

Explanations must not minimize nor describe restrictive provisions in a positive manner. Negative features must be accurately set forth. Any limitation on benefits precluding preexisting conditions must also be restated under a caption concerning exclusions or limitations, notwithstanding that the preexisting condition exclusion has been disclosed elsewhere in the advertisement. (See Guideline 6-C for additional comments on preexisting conditions.)  
Guideline 6-A(5)

The rule should be applied in conjunction with Section 10. Phrases such as "we cut cost to the bone" or "we deal direct with you so our costs are lower" shall not be used.  
Guideline 6-B(1)

An advertisement which is an invitation to contract as defined in Section 3J must recite the exceptions, reductions and limitations as required by the rule and in a manner consistent with Section 4.

If an exception, reduction or limitation is important enough to use in a policy, it is of sufficient importance that its existence in the policy should be referred to in the advertisement regardless of whether it may also be the subject matter of a provision of the Uniform Individual Accident and Sickness Policy Provision Law.

Some advertisements disclose exceptions, reductions and limitations as required, but the advertisement is so lengthy that it obscures the disclosure. Where the length of an advertisement has this effect, special emphasis must be given by changing the format to show the restrictions in a manner which does not minimize, render obscure or otherwise make them appear unimportant.  
Guideline 6-C(1)

The rule implements the objective of Section 6A(4)(a) by requiring in negative terms a description of the effect of a preexisting condition exclusion because such an exclusion is a restriction on coverage. The subdivision also prohibits the use of the phrase "preexisting condition" without an appropriate definition or description of the term and prohibits stating a reduction in the statutory time limit as an affirmative benefit. The words "appropriate definition or description" means that the term "preexisting condition" must be defined as it is used by the company's claims department.  
Guideline 6-C(2)

The phrase "no health questions" or words of similar import shall not be used if the policy excludes preexisting conditions.

Use of a phrase such as "guaranteed issue," or "automatic issues," if the policy excludes preexisting conditions for a certain period, must be accompanied by a statement disclosing that fact in a manner which does not minimize, render obscure or otherwise make it appear unimportant and is otherwise consistent with Section 4.  
Guideline 6-C(3)

Some states require approval of the application even when the application is not attached to the policy when issued. The rule does not change such a requirement. The text of this guideline should be modified to reflect the rule applicable in the particular state.

#### Guideline 7

Advertisements of cancellable Medicare supplement policies must state that the contract is cancellable or renewable at the option of the company as the case may be. With respect to noncancellable policies and guaranteed renewable policies, the policy provisions, with respect to renewability, must be set forth and defined where appropriate.

The rule also requires a statement of the qualifying conditions which constitute limitations on the permanent nature of the coverage. These customarily fall into three categories: (1) age limits, (2) reservation of a right to increase premiums, and (3) the establishment of aggregate limits. For example, "noncancellable and guaranteed renewable" does not fulfill the requirements of the rule if the policy contains a terminal age. In such a case, a proper statement would be "Noncancellable and guaranteed renewable to age \_\_\_\_." If a guaranteed renewable policy reserves the right to increase premiums, the statement must be expanded into language similar to "guaranteed renewable to age \_\_\_\_" but the company reserves the right to increase premium rates on a class basis. If the contract contains an aggregate limit after which no further benefits are payable, the above statement must be amplified with the phrase "subject to a maximum aggregate amount of \$50,000" or similar language. A Medicare supplement insurance policy may have one or more of the three basic limitations and an advertisement must describe each of those which the policy contains. Over fifty percent of new individual policy issues are guaranteed renewable; therefore, the fact that a policy is guaranteed renewable shall not be exaggerated.

An advertisement for a Medicare supplement insurance policy which provides for age step-rated premium rates based upon the policy year or the insured's attained age must disclose such rate increases and the times or ages at which such premium increases.

#### Guideline 8-A

The rule must be applied in conjunction with Section 9 and requires that all such statements must be genuine and not fictitious. Under the rule, the manufacturing, substantive editing or "doctoring up" of testimonial is clearly prohibited as being false and misleading to the insurance-buying public. However, language which would be unacceptable under these rules must be edited out of a testimonial.

#### Guideline 8-C

The rule requires that both approval or endorsement of a policy by an individual, group or individuals, society, association, or other organization be factual and that any proprietary relationship between the sponsoring or endorsing organization and the insurer be disclosed. For example, if the dividend under an association group case is payable to the association, disclosure of that fact is required. Also, if the insurer or an officer of the insurer formed or controls the association, that fact must be disclosed. This guideline also applies to Section 8E.

#### Guideline 9-A

An advertisement shall specifically identify the Medicare supplement insurance policy to which statistics relate and, where statistics are given which are applicable to a different policy, it must be stated clearly that the data does not relate to the policy being advertised.

An advertisement which states the dollar amount of claims paid must also indicate the period over which such claims have been paid.

If the term "loss ratio" is used, it shall be properly explained in the contest of the advertisement and, unless the state has issued a regulation otherwise defining the term, it shall be

calculated on the basis of premiums earned to losses incurred and shall not be only a yearly run-off basis.

#### Guideline 9-C

The rule does not require that statistics for this state be used since such statistics as hospital charges and average stays may vary from state to state. When nationwide statistics are used, such facts should be noted, unless the statistics on the particular point are substantially the same in a state to which the advertisement is directed. Statistics may only be used if they are current and credible.

#### Guideline 10

The rule prohibits disparaging, unfair or incomplete comparisons of policies or benefits which would have a tendency to deceive or mislead the public. The rule does not preclude the use of comparisons by health maintenance organizations, prepaid health plans and other direct service organizations which describe the difference between their prepaid health benefits coverage and indemnity insurance coverage.

#### Guideline 11-A

The rule prohibits advertisements which imply that an insurer is licensed beyond the limits of those jurisdictions where it is actually licensed. An advertisement which contains testimonials from persons who reside in a state in which the insurer is not licensed or which refers to claims of persons residing in states in which the insurer is not licensed implies licensing in those states; and, therefore, is in violation of this rule unless the advertisement states that the insurer is not licensed in those states.

#### Guideline 11-B

Although the rule permits a reference to an insurer being licensed in a state where the advertisement appears, it does not allow exaggeration of the fact of such licensing nor does it permit the suggestion that competing insurers may not be so licensed because, in most states, an insurer must be licensed in the state to which it directs its advertising.

Terms such as "official," or words of similar import, used to describe any policy or application form are not permissible because of the potential for deceiving or misleading the public. This guideline also applies to Section 11C.

#### Guideline 14-A(1)

The rule prohibits advertising representing that a product is offered on an introductory, initial or special offer basis or otherwise which (a) will not be available later, or (b) is available only to certain individuals, unless such is the fact. This rule prohibits the repetitive use of such advertisements. Where an insurer uses enrollment periods as the usual method of advertising these policies, the rule prohibits describing an enrollment period as a special opportunity or offer for the applicant.

#### Guideline 14-A(2)

The rule restricts the repetitive use of enrollment periods. The requirement of reasonable closing dates and waiting periods between enrollment periods was adopted to eliminate the abuses which formerly existed. This rule does not limit just the use of enrollment periods. It requires that a particular insurance product offered in an enrollment period through any advertising media, including the prepared presentations of agents, cannot be offered again in the state until [insert number] months from the close of the enrollment period. Thus, an insurer must choose whether to use enrollment periods or open enrollment for a product. (See Section 14A(4) for the definition of "a particular insurance product.")

The rule does not prohibit multiple advertising during an enrollment period through any and all media published or transmitted within this state as long as the enrollment periods for all

such advertisements have the same expiration date.

The rule does not prohibit the solicitation of members of a group or association for the same product even though there has not been a lapse of [insert months] since the close of a preceding enrollment period which was open to the general public for the same product.

The rule does not require separation by [insert number] months of enrollment periods for the same insurance product in this state if the advertising material is directed by an admitted insurer to persons by direct mail on the basis that a common relationship exists with an entity. Examples of such would be a bank and its depositors, a department store to its charge account customers, or an oil company to its credit card holders, and more than one of such organizations is sponsoring such insurance product at different times if providing such insurance under such a method is not otherwise prohibited by law. However, the [insert number] month rule does apply to one specific sponsor to the same persons in this state on the basis of their status as customers of that one specific entity only.

#### Guideline 14-A((4))

The rule defines the meaning of "a particular insurance product" in Section 14A(2) and prohibits advertising of products having minor variations such as different periods or different amounts of daily hospital indemnity benefits, in a succession of enrollment periods.

#### Guideline 15

The rule is closely related to the requirements of Section 9 concerning the use of statistics. The rule prohibits insurers which have been organized for only a brief period of time advertising that they are "old" and also prohibits emphasizing the size and magnitude of the insurer. Also, the occupations of the persons comprising the insurer's board of directors or the public's familiarity with their names or reputations is irrelevant and must not be emphasized. The preponderance of a particular occupation or profession among the board of directors of an insurer does not justify the advertisement of a plan of insurance offered to the general public as insurance designed or recommended by members of that occupation or profession. For example, it is unacceptable for an insurance company to advertise a policy offered to the general public as "the physicians' policy" or "the doctors' plan" simply because there is a preponderance of physicians or doctors on the board of directors of the insurer. The rule prohibits the use of recommendation of a commercial rating system unless the purpose, meaning and limitations of the recommendation are clearly indicated.

#### Guideline 16

The text of Subsection A is identical to the text of the first paragraph of the Enforcement Section of previous drafts of the rules except the last sentence of the subsection has been revised to require that the advertising file be maintained either for a period of four years (rather than three as previously) or until the next regular examination of the insurer, whichever is the longer period of time.

#### Guideline 18

The rule is attached as an example of the text of a rule which may be used at the option of the commissioner in a state which reviews advertisements prior to use. The NAIC takes no position here on the question of whether direct response advertising material should be subject to prior review by the commissioner.

Regulation 33-A  
TO IMPLEMENT TRANSITIONAL REQUIREMENTS  
FOR THE CONVERSION OF MEDICARE SUPPLEMENT  
INSURANCE BENEFITS AND PREMIUMS  
TO CONFORM TO MEDICARE PROGRAM REVISIONS

Section 1. Purpose

The purpose of this regulation is to assure the orderly implementation and conversion of Medicare supplement insurance benefits and premiums due to changes in the federal Medicare program; to provide for the reasonable standardization of the coverage, terms and benefits of Medicare supplement policies or contracts; to facilitate public understanding of such policies or contracts; to eliminate provisions contained in such policies or contracts which may be misleading or confusing in connection with the purchase of such policies or contracts; to eliminate policy or contract provisions which may duplicate Medicare benefits; to provide full disclosure of policy or contract benefits and benefit changes; and to provide for refunds of premiums associated with benefits duplicating Medicare program benefits.

Section 2. Authority

This regulation is issued pursuant to the authority vested in the commissioner under R.S. 22:224H.

Section 3. Applicability and Scope

This regulation shall take precedence over other regulations and requirements relating to Medicare supplement policies or contracts only to the extent necessary to assure that benefits are not duplicated, that applicants receive adequate notice and disclosure of changes in Medicare supplement policies and contracts, that appropriate premium adjustments are made in a timely manner, and that premiums are reasonable in relation to benefits.

Except as otherwise provided, this regulation shall apply to:

- A. all Medicare supplement policies and contracts delivered, or issued for delivery, or which are otherwise subject to the jurisdiction of this state on or after the effective date hereof, and
- B. all certificates issued under group Medicare supplement policies as provided in A above.

Section 4. Definitions

For purposes of this regulation:

A. *Applicant* means:

- 1. in the case of an individual Medicare supplement policy or contract, the person who seeks to contract for insurance benefits, and
- 2. in the case of a group Medicare supplement policy or contract, the proposed certificate holder.

B. *Certificate* means any certificate issued under a group Medicare supplement policy.

C. *Medicare Supplement Policy* means a group or individual policy of accident and sickness insurance or any other contract which is advertised, marketed or designed primarily to provide health care benefits as a supplement to reimbursements under Medicare for the hospital, medical or surgical expenses of persons eligible for Medicare by reason of age.

Section 5. Benefit Conversion Requirements

A. Effective January 1, 1989, no Medicare supplement insurance policy, contract or certificate in force in this state shall contain benefits which duplicate benefits provided by Medicare.

B. General Requirements

1. No later than 30 days prior to the annual effective date of Medicare benefit changes mandated by the Medicare Catastrophic Coverage Act of 1988, every insurer, health care service

plan or other entity providing Medicare supplement insurance or benefits to a resident of this state shall notify its policyholders, contract holders and certificate holders of modifications it has made to Medicare supplement insurance policies or contracts. Such notice shall be in the format adopted by the NAIC in June of 1988 if no other format is prescribed by the commissioner.

a. Such notice shall include a description of revisions to the Medicare program and a description of each modification made to the coverage provided under the Medicare supplement insurance policy or contract.

b. The notice shall inform each covered person as to when any premium adjustment due to changes in Medicare benefits will be made.

c. The notice of benefit modifications and any premium adjustments shall be in outline form and in clear and simple terms so as to facilitate comprehension. Such notice shall not contain or be accompanied by any solicitation.

2. No modifications to an existing Medicare supplement contract or policy shall be made at the time of or in connection with the notice requirements of this regulation except to the extent necessary to eliminate duplication of Medicare benefits and any modifications necessary under the policy or contract to provide indexed benefit adjustment.

3. As soon as practicable, but no longer than 45 days after the effective date of the Medicare benefit changes, every insurer, health care service plan or other entity providing Medicare supplement insurance or contracts in this state shall file with the department, in accordance with the applicable filing procedures of this state:

a. Appropriate premium adjustments necessary to produce loss ratios as originally anticipated for the applicable policies or contracts. Such supporting documents as necessary to justify the adjustment shall accompany the filing.

b. Any appropriate riders, endorsements or policy forms needed to accomplish the Medicare supplement insurance modifications necessary to eliminate benefit duplications with Medicare. Any such riders, endorsements or policy forms shall provide a clear description of the Medicare supplement benefits provided by the policy or contract.

4. Upon satisfying the filing and approval requirements of this state, every insurer, health care service plan or other entity providing Medicare supplement insurance in this state shall provide each covered person with any rider, endorsement or policy form necessary to eliminate any benefit duplications under the policy or contract with benefits provided by Medicare.

5. No insurer, health care service plan or other entity shall require any person covered under a Medicare supplement policy or contract which was in force prior to January 1, 1989 to purchase additional coverage under such policy or contract unless such additional coverage was provided for in the policy or contract.

6. Every insurer, health care service plan or benefit, or other entity providing Medicare supplement insurance or benefits to a resident of this state shall make such premium adjustments as are necessary to produce an expected loss ratio under such policy or contract as will conform with minimum loss ratio standards for Medicare supplement policies and which is expected to result in a loss ratio at least as great as that originally anticipated by the insurer, health care service plan or other entity for such Medicare supplement insurance policies or contracts. No premium adjustment which would modify the loss ratio experience under the policy other than the adjustments described herein should be made with respect to a policy at any time other than

upon its renewal date. Premium adjustments shall be in the form of refunds or premium credits and shall be made no later than upon renewal if a credit is given, or within 60 days of the renewal date if a refund is provided to the premium payer.

**Section 6. Requirements for New Policies and Certificates**

A. Effective January 1, 1989, no Medicare supplement insurance policy, contract or certificate shall be issued or issued for delivery in this state which provides benefits which duplicate benefits provided by Medicare. No such policy, contract or certificate shall provide less benefits than those required under the existing Medicare Supplement Minimum Standards Act or Regulations except where duplication of Medicare benefits would result.

**B. General Requirements**

1. Within 90 days of the effective date of this regulation, every insurer, health care service plan or other entity required to file its policies or contracts with this state shall file new Medicare supplement insurance policies or contracts which eliminate any duplication of Medicare supplement benefits provided by Medicare and which provide a clear description of the policy or contract benefit.

2. The filing required under 6.B.1 shall provide for loss ratios which are in compliance with all minimum standards.

3. Every applicant for a Medicare supplement insurance policy, contract or certificate shall be provided with an outline of

coverage which simplifies and accurately describes benefits provided by Medicare and policy or contract benefits along with benefit limitations.

**Section 7. Requirements for Advertising**

Every insurer, health care service plan or other entity providing Medicare supplement insurance or benefits in this state shall file a copy of any advertisement intended for use in this state whether through written, radio or television medium to the commissioner of insurance of this state for review by the commissioner. Such advertisement shall comply with all applicable laws of this state.

**Section 8. Buyer's Guide**

No insurer, health care service plan or other entity shall make use of or otherwise disseminate any Buyer's Guide or informational brochure which does not accurately outline current Medicare benefits and which has not been adopted by the commissioner.

**Section 9. Separability**

If any provision of this regulation or the application thereof to any person or circumstance is for any reason held to be invalid, the remainder of the regulation and the application of such provision to other persons or circumstances shall not be affected thereby.

**Section 10.**

This regulation shall be effective upon adoption.

**Format For Notices Of Change In Benefits**

(Company Name)  
 Notice On Changes In Medicare  
 And Your Medicare Supplement Insurance-1989

Your health care benefits provided by the federal Medicare program will change beginning January 1, 1989. Additional changes will occur on medical benefits in following years. The major changes are summarized below. These changes will affect hospital, medical and other services and supplies provided under Medicare. Because of these changes your Medicare supplement coverage provided by (company name) will change, also. The following outline briefly describes the modification in Medicare and in your Medicare supplement coverage. Please read carefully.

(A brief description of the revisions to Medicare Parts A & B with a parallel description of supplemental benefits with subsequent changes, including dollar amounts provided by the Medicare supplement coverage in substantially the following format.)

Services	Medicare Benefits		Your Medicare Supplement Coverage	
	Medicare Now Pays Per Benefit Period	Effective January 1, 1989 Medicare Will Pay Per Calendar Year	Your 1988 Coverage Per Benefit Period	Effective January 1, 1989 Your Coverage Will Pay Per Calendar Year
Medicare Part A Services and Supplies	First 60 days-All but \$540 61st to 90th day-All but \$135 a day 91st to 150th day-All but \$270 a day Beyond 150 day-Nothing	Unlimited number of hospital days after \$564 deductible		
Posthospital Skilled Nursing Care	Requires a 3 day prior stay and enter the facility within 14 days after hospital discharge First 20 days-100% of costs 21st through 100th Day-All but \$67.50 a day Beyond 100 days-Nothing	There is no prior confinement requirement for this benefit First 8 days-All but \$ a day 9th through 150th day 100% of costs Beyond 150 days-Nothing		

Services	Medicare Benefits		Your Medicare Supplement Coverage	
	Medicare Now Pays Per Calendar Year	In 1989 Part B Pays the Same as in 1988	Your Policy Now Pays	Effective January 1, 1989 Your Policy Will Pay
Medicare Part B Services and Supplies	80% of allowable charges after \$(75) deductible)	NOTE: Medicare Benefits changes on January, 1990 as follows: 80% of allowable charges (after \$(75) deductible) until an annual Medicare Catastrophic limit is met. 100% of allowable charges for the remainder of the calendar year. The limit in 1990 is \$1370* and will be adjusted on an annual basis.		
Prescription Drugs	Inpatient prescription drugs only	In 1989 Medicare covers inpatient prescription drugs  Effective January 1, 1990 <i>Per Calendar Year</i> 80% of allowable charges for home intravenous (IV) therapy drugs and 50% of allowable charges for im- munosuppressive drugs after (\$550 in 1990) calendar year deductible is met.  Effective January 1, 1991 <i>Per Calendar Year</i> Inpatient prescription drugs 50% of allowable charges for all other out- patient prescription after a \$600 deductible. (The deductible will be changed calendar year deductible is met. Coverage will increase to 60% of allowable charges in 1992 and to 80% of allowable charges from 1993 on.		

\*Expenses that count toward the Part B Medicare Catastrophic Limit include: The Part B deductible and copayment charges and the Part B blood deductible charge.

(ANY ADDITIONAL BENEFITS)

(Describe any coverage provisions changing due to Medicare modifications.)

(Include information about premium adjustments that may be necessary due to changes in Medicare benefits or when premium charges information will be sent.)

This chart summarizing the changes in your Medicare benefits and in your Medicare supplement provided by (Company) only briefly describes such benefits. For information on your Medicare benefits, contact your Social Security Office of the Health Care Financing Administration. For information on your Medicare supplement (Policy) contact:

(Company or for an individual policy-name of agent)

(address/phone number)



(Company Name)  
 Notice on changes in Medicare and your Medicare supplement coverage - 1990

Your health care benefits provided by the federal Medicare program will change beginning January 1, 1990. Additional changes will occur in medical benefits in following years. The major changes are summarized below. These changes will affect hospital, medical and other services and supplies provided under Medicare. Because of these changes your Medicare supplement coverage provided by (company name) will change, also. The following outline briefly describes the modification in Medicare and in your Medicare supplement coverage. Please read this carefully!

(A brief description of the revisions to Medicare Parts A & B with a parallel description of supplemental benefits with subsequent changes, including dollar amounts provided by the Medicare supplement coverage in substantially the following format.)

Services	Medicare Benefits		Your Medicare Supplement Coverage	
	Medicare Now Pays Per Calendar Year	Effective January 1, 1990 Medicare Will Pay Per Calendar Year	Your Coverage Now Pays Per Calendar Year	Effective January 1, 1990 Your Coverage Will Pay Per Calendar Year
Medicare Part A Services and Supplies	Unlimited number of hospital days after (\$564) deductible			
Posthospital Skilled Nursing Care	There is no prior confinement requirement for this benefit.  First 8 days-All but \$( ) a day  9th through 150th day-100% of costs  Beyond 150 days-Nothing			
Medicare Part B Services and Supplies	80% of allowable charges (after \$75 deductible) until an annual Medicare Catastrophic Limit is met. 100% of allowable charges for the remainder of the calendar year. The limit in 1990 is \$1370 and will be adjusted on an annual basis.			
Prescription Drugs	Inpatient prescription drugs. 80% of allowable charges for home intravenous (IV) therapy drugs and 50% of allowable charges for immunosuppressive drugs after (\$550 in 1990) calendar year deductible is met.			

\*Expenses that count toward the Part B Medicare Catastrophic Limit include: the Part B deductible and copayment charges and the Part B blood deductible charges.

(ANY ADDITIONAL BENEFITS)

(Describe any coverage provisions changing due to Medicare modifications)

(Include information about premium adjustments that may be necessary due to changes in Medicare benefits or when premium charges information will be sent.)

This chart summarizing the changes in your Medicare benefits and in your Medicare supplement provided by (company) only briefly describes such benefits. For information on your Medicare benefits contact your Social Security Office or the Health Care Financing Administration. For information on your Medicare supplement (Policy) contact:

(Company or for an individual policy-name of agent)

(address/phone number)

(Company Name)  
 Notice on changes in Medicare and your Medicare supplement coverage-1991)

Your health care benefits provided by the federal Medicare program will change beginning January 1, 1991. Additional changes will occur in medical benefits in following years. The major changes are summarized below. These changes will affect hospital, medical and other services and supplies provided under Medicare. Because of these changes your Medicare supplement coverage provided by (company name) will change, also. The following outline briefly describes the modification in Medicare and in your Medicare supplement coverage. Please read carefully!

(A brief description of the revisions to Medicare Parts A & B with a parallel description of supplemental benefits with subsequent changes, including dollar amounts, provided by the Medicare supplement coverage in substantially the following format.)

Services	Medicare Benefits		Your Medicare Supplement Coverage	
	Medicare Now Pays Per Calendar Year	Effective January 1, 1991 Medicare Will Pay Per Calendar Year	Your Coverage Now Pays Per Calendar Year	Effective January 1, 1991 Your Coverage Will Pay Per Calendar Year
Medicare Part A Services and Supplies	Unlimited number of hospital days after (\$ ) deductible			
Posthospital Skilled Nursing Care	There is no prior confinement requirement for this benefit.  First 8 days-All but \$( ) a day 9th through 150th day-100% of costs Beyond 150 days-Nothing			
Medicare Part B Services and Supplies	80% of allowable charges (after \$75 deductible) until an annual Medicare Catastrophic Limit is met. 100% of allowable charges for the remainder of the calendar year. The limit in 1991 is \$ and will be adjusted on an annual basis.			
Prescription Drugs	Inpatient prescription drugs. 50% of allowable charges for all other outpatient prescription drugs, until \$600 calendar year deductible is met.	Inpatient prescription drugs 60% of allowable charges for all other outpatient prescription drugs, until \$652 calendar year deductible is met. Coverage will increase to 80% of allowable charges from 1993 on, and deductible will be adjusted on an annual basis.		

\*Expenses that count toward the Part B Medicare Catastrophic Limit include: the Part B deductible and copayment charges and the Part B blood deductible charges.

(ANY ADDITIONAL BENEFITS)

(Describe any coverage provisions changing due to Medicare modifications)

(Include information about premium adjustments that may be necessary due to changes in Medicare benefits or when premium charges information will be sent.)

This chart summarizing the changes in your Medicare benefits and in your Medicare supplement provided by (company) only briefly describes such benefits. For information on your Medicare benefits contact your Social Security Office or the Health Care Financing Administration. For information on your Medicare supplement (Policy) contact:

(Company or for an individual policy-name of agent) (address/phone number)

**REGULATION 33-B  
 TO IMPLEMENT THE MEDICARE SUPPLEMENT  
 INSURANCE MINIMUM STANDARDS MODEL ACT**

**Section 1. Purpose**

The purpose of this regulation is to provide for the reasonable standardization of coverage and simplification of terms and benefits of Medicare supplement policies; to facilitate public understanding and comparison of such policies; to eliminate provisions contained in such policies which may be misleading or

confusing in connection with the purchase of such policies or with the settlement of claims; and to provide for full disclosures in the sale of accident and sickness insurance coverages to persons eligible for Medicare by reason of age.

**Section 2. Authority**

This regulation is issued pursuant to the authority vested in the commissioner under R.S. 22:224H.

**Section 3. Applicability and Scope**

Except as otherwise specifically provided, this regulation shall apply to:

A. all Medicare supplement policies and subscriber contracts delivered or issued for delivery in this state on or after the effective date hereof, and

B. all certificates issued under group Medicare supplement policies or subscriber contracts, which certificates have been delivered or issued for delivery in this state.

C. this regulation shall not apply to a policy or contract of one or more employers or labor organizations, or of the trustees of a fund established by one or more employers or labor organizations, or combination thereof, for employees or former employees, or a combination thereof, or for members or former members, or a combination thereof, of the labor organizations.

Section 4. Definitions

A. *Applicant* means:

1. in the case of an individual Medicare supplement policy or subscriber contract, the person who seeks to contract for insurance benefits, and

2. in the case of a group Medicare supplement policy or subscriber contract, the proposed certificate holder.

B. *Certificate* means any certificate issued under a group Medicare supplement policy, which certificate has been delivered or issued for delivery in this state.

C. *Medicare Supplement Policy* means a group or individual policy of (accident and sickness) insurance or a subscriber contract (of hospital and medical service associations or health maintenance organizations) which is advertised, marketed or designed primarily as a supplement to reimbursements under Medicare for the hospital, medical or surgical expenses of persons eligible for Medicare by reason of age.

Section 5. Policy Definitions and Terms

No insurance policy or subscriber contract may be advertised, solicited or issued for delivery in this state as a Medicare supplement policy unless such policy or subscriber contract contains definitions or terms which conform to the requirements of this Section.

A. *Accident, Accidental Injury, or Accidental Means* shall be defined to employ "result" language and shall not include words which establish an accidental means test or use words such as "external, violent, visible wounds" or similar words of description or characterization.

1. The definition shall not be more restrictive than the following: "Injury or injuries for which benefits are provided means accidental bodily injury sustained by the insured person which is the direct result of an accident, independent of disease or bodily infirmity or any other cause, and occurs while insurance coverage is in force."

2. Such definition may provide that injuries shall not include injuries for which benefits are provided or available under any workers' compensation, employer's liability or similar law, or motor vehicle no-fault plan, unless prohibited by law.

B. *Benefit Period or Medicare Benefit Period* shall not be defined as more restrictive than as that defined in the Medicare program.

C. *Convalescent Nursing Home, Extended Care Facility, or Skilled Nursing Facility* shall be defined in relation to its status, facilities and available services.

1. A definition of such home or facility shall not be more restrictive than one requiring that it:

- a. be operated pursuant to law;
- b. be approved for payment of Medicare benefits or be qualified to receive such approval, if so requested;
- c. be primarily engaged in providing, in addition to room and board accommodations, skilled nursing care under the su-

pervision of a duly licensed physician;

d. provide continuous 24 hours a day nursing service by or under the supervision of a registered graduate professional nurse (R.N.); and

e. maintains a daily medical record of each patient.

2. The definition of such home or facility may provide that such term not be inclusive of:

a. any home, facility or part hereof used primarily for rest;

b. a home or facility for the aged or for the care of drug addicts or alcoholics; or

c. a home or facility primarily used for the care and treatment of mental diseases or disorders, or custodial or educational care.

D. *Health Care Expenses* means expenses of health maintenance organizations associated with the delivery of health care services which are analogous to incurred losses of insurers.

Such expenses shall not include:

1. home office and overhead costs;
2. advertising costs;
3. commissions and other acquisition costs;
4. taxes;
5. capital costs;
6. administrative costs; or
7. claims processing costs.

E. *Hospital* may be defined in relation to its status, facilities and available services or to reflect its accreditation by the Joint Commission on Accreditation of Hospitals.

1. The definition of the term *hospital* shall not be more restrictive than one requiring that the hospital:

- a. be an institution operated pursuant to law, and;
- b. be primarily and continuously engaged in providing or operating, either on its premises or in facilities available to the hospital on a prearranged basis and under the supervision of a staff of duly licensed physicians, medical, diagnostic and major surgical facilities for the medical care and treatment of sick or injured persons on an inpatient basis for which charge is made; and

c. provide 24-hour nursing service by or under the supervision of registered graduate professional nurses (R.N.s).

2. The definition of the term *hospital* may state that such term shall not be inclusive of:

a. convalescent homes, convalescent, rest or nursing facilities; or

b. facilities primarily affording custodial, educational or rehabilitative care; or

c. facilities for the aged, drug addicts or alcoholics; or

d. any military or veterans hospital or soldiers home or any hospital contracted for or operated by any national government or agency thereof for the treatment of members or ex-members of the armed forces except for services rendered on an emergency basis where a legal liability exists for charges made to the individual for such services.

F. *Medicare* shall be defined in the policy. Medicare may be substantially defined as "The Health Insurance for the Aged Act, Title XVIII of the Social Security Amendments of 1965 as Then Constituted or Later Amended," or "Title I, Part I of Public Law 89-97, as Enacted by the Eighty-Ninth Congress of the United States of America and popularly known as the Health Insurance for the Aged Act, as then constituted and any later amendments or substitutes thereof," or words of similar import.

G. *Medicare Eligible Expenses* shall mean health care expenses of the kinds covered by Medicare, to the extent recog-

nized as reasonable by Medicare. Payment of benefits by insurers for Medicare eligible expenses may be conditioned upon the same or less restrictive payment conditions, including determination of medical necessity as are applicable to Medicare claims;

H. *Mental or Nervous Disorders* shall not be defined more restrictively than a definition including neurosis, psycho-neurosis, psychopathy, psychosis, or mental or emotional disease or disorder of any kind.

I. *Nurses* may be defined so that the description of nurse is restricted to a type of nurse, such as registered graduate professional nurse (R.N.), a licensed practical nurse (L.P.N.), or a licensed vocational nurse (L.V.N.). If the words "nurse", "trained nurse", or "registered nurse" are used without specific instruction, then the use of such terms requires the insurer to recognize the services of any individual who qualified under such terminology in accordance with the applicable statutes or administrative rules of the licensing or registry board of the state.

J. *Physician* may be defined by including words such as *duly qualified physici*st or *duly licensed physician*. The use of such terms requires an insurer to recognize and to accept to the extent of its obligation under the contract, all providers of medical care and treatment when such services are within the scope of the provider's licensed authority and are provided pursuant to applicable laws.

K. *Sickness* shall not be defined to be more restrictive than the following:

"Sickness means sickness or disease of an insured person which first manifests itself after the effective date of insurance while the insurance is in force."

The definition may be further modified to exclude sicknesses or diseases for which benefits are provided under any workers' compensation, occupational disease, employer's liability or similar law.

#### Section 6. Prohibited Policy Provisions

A. No insurance policy or subscriber contract may be advertised, solicited or issued for delivery in this state as a Medicare supplement policy if such policy or subscriber contract limits or excludes coverage by type of illness, accident, treatment or medical condition, except as follows:

1. foot care in connection with corns, calluses, flat feet, fallen arches, weak feet, chronic foot strain, or symptomatic complaints of the feet;

2. mental or emotional disorders, alcoholism and drug addiction;

3. illness, treatment or medical condition arising out of:  
a. war or act of war (whether declared or undeclared); participation in a felony, riot or insurrection, service in the armed forces or units auxiliary thereto;

b. suicide (sane or insane), attempted suicide or intentionally self-inflicted injury;

4. cosmetic surgery, except that "cosmetic surgery" shall not include reconstructive surgery when such service is incidental to or follows surgery resulting from trauma, infection, or other diseases of the involved part;

5. care in connection with the detection and correction by manual or mechanical means of structural imbalance, distortion, or subluxation in the human body for purposes of removing nerve interference and the effect thereof, where such interference is the result of or related to distortion, misalignment or subluxation of or in the vertebral column;

6. treatment provided in a governmental hospital; benefits provided under Medicare or other governmental program (except Medicare), and state or federal workers' compensation,

employer's liability or occupational disease law, or any motor vehicle no-fault law; services rendered by employees of hospitals, laboratories or other institutions; services performed by a member of the covered person's immediate family and services for which no charge is normally made in the absence of insurance;

7. dental care or treatment;

8. eyeglasses, hearing aids and examination for the prescription or fitting thereof;

9. rest cures, custodial care, transportation and routine physical examinations;

10. territorial limitations outside the United States; provided, however, supplemental policies may not contain, when issued, limitations or exclusions of the type enumerated in Subsection (1), (5), (9), or (10) above that are more restrictive than those of Medicare. Medicare supplement policies may exclude coverage for any expense to the extent of any benefit available to the insured under Medicare.

B. No Medicare supplement policy may use waivers to exclude, limit or reduce coverage or benefits for specifically named or described pre-existing diseases or physical conditions.

C. The terms "Medicare Supplement", "Medigap" and words of similar import shall not be used unless the policy is issued in compliance with this regulation.

D. No Medicare supplement insurance policy, contract or certificate in force in the state shall contain benefits which duplicate benefits provided by Medicare.

#### Section 7. Minimum Benefit Standards

No insurance policy or subscriber contract may be advertised, solicited or issued for delivery in this state as a Medicare supplement policy which does not meet the following minimum standards. These are minimum standards and do not preclude the inclusion of other provisions or benefits which are not inconsistent with these standards.

##### A. General Standards

The following standards apply to Medicare supplement policies and are in addition to all other requirements of this regulation.

1. A Medicare supplement policy may not deny a claim for losses incurred more than six months from the effective date of coverage for a pre-existing condition. The policy may not define a pre-existing condition more restrictively than a condition for which medical advice was given or treatment was recommended by or received from a physician within six months before the effective date of coverage.

2. A Medicare supplement policy may not indemnify against losses resulting from sickness on a different basis than losses resulting from accidents.

3. A Medicare supplement policy shall provide that benefits designed to cover cost sharing amounts under Medicare will be changed automatically to coincide with any changes in the applicable Medicare deductible amount and co-payment percentage factors. Premiums may be modified to correspond with such changes.

4. A "noncancellable", "guaranteed renewable", or "non-cancellable and guaranteed renewable" Medicare supplement policy shall not:

a. provide for termination of coverage of a spouse solely because of the occurrence of an event specified for termination of coverage of the insured, other than the non-payment of premium; or

b. be cancelled or non-renewed by the insurer solely on the grounds of deterioration of health; and

5. Termination of a Medicare supplement policy shall be without prejudice to any continuous loss which commenced while the policy was in force, but the extension of benefits beyond the period during which the policy was in force may be predicated upon the continuous total disability of the insured, limited to the duration of the policy benefit period, if any, or payment of the maximum benefits.

**B. Minimum Benefits Standards**

1. Coverage for either all or none of the Medicare Part A inpatient hospital deductible amount.

2. Coverage for the daily co-payment amount of Medicare Part A eligible expenses for the first eight days per calendar year incurred for skilled nursing facility care.

3. Coverage for the reasonable cost of the first three pints of blood (or equivalent quantities of packed red blood cells, as defined under federal regulations) under Medicare Part A unless replaced in accordance with federal regulations.

4. a. Until January 1, 1990, coverage for 20 percent of the amount of Medicare eligible expenses under Part B regardless of hospital confinement, subject to a maximum calendar year out-of-pocket deductible of \$200 of such expenses and to a maximum benefit of at least \$5,000 per calendar year.

b. Effective January 1, 1990, coverage for the co-payment amount (20 percent) of Medicare eligible expenses excluding outpatient prescription drugs under Medicare Part B regardless of hospital confinement up to the maximum out-of-pocket amount for Medicare Part B after the Medicare deductible amount.

5. Effective January 1, 1990, coverage under Medicare Part B for the reasonable cost of the first three pints of blood (or equivalent quantities of packed red blood cells, as defined under federal regulations), unless replaced in accordance with federal regulations.

6. Effective January 1, 1990, coverage for the co-payment amount (20 percent) of Medicare eligible expenses for covered home intravenous (IV) therapy drugs (as determined by the Secretary of Health and Human Services) subject to the Medicare outpatient prescription drug deductible amount, if applicable.

7. Effective January 1, 1990, coverage for the co-payment amount (20 percent) of Medicare eligible expenses for outpatient drugs used in immunosuppressive therapy, subject to the Medicare outpatient prescription drug deductible amount, if applicable.

**C. Medicare Eligible Expenses**

Medicare eligible expenses shall mean health care expenses of the kinds covered by Medicare, to the extent recognized as reasonable by Medicare. Payment of benefits by insurers for Medicare eligible expenses may be conditioned upon the same or less restrictive payment conditions, including determinations of medical necessity as are applicable to Medicare claims.

**Section 8. Standards for Claims Payment**

A. Every entity providing Medicare supplement policies or contracts shall comply with all provisions of Section 4081 of the Omnibus Budget Reconciliation Act of 1987 (P.L. 100-203).

B. Compliance with the requirements set forth in Subsection A above must be certified on the Medicare supplement insurance experience reporting form.

**Section 9. Loss Ratio Standards**

Medicare supplement policies shall return policyholders in the form of aggregate benefits under the policy, for the entire period for which rates are computed to provide coverage, on the basis of incurred claims experience or incurred health care ex-

penses where coverage is provided by a health maintenance organization on a service rather than reimbursement basis and earned premiums for such period and in accordance with accepted actuarial principles and practices:

A. At least 75 percent of the aggregate amount of premiums earned in the case of group policies, and

B. At least 60 percent of the aggregate amount of premiums earned in the case of individual policies. For the purposes of determining the loss ratio standard, Medicare supplement policies issued as a result of solicitations of individuals through the mail or mass medium advertising, including both print and broadcast advertising, shall be treated as individual policies.

All filings of rates and rating schedules shall demonstrate that actual and expected losses in relation to premiums comply with the requirements of this Section.

C. Every entity providing Medicare supplement policies in this state shall file annually its rates, rating schedule and supporting documentation including ratios of incurred losses to earned premiums by number of years of policy duration demonstrating that it is in compliance with the foregoing applicable loss ratio standards and that the period for which the policy is rated is reasonable with accepted actuarial principles and experience.

For the purposes of this Section, policy forms shall be deemed to comply with the loss ratio standards if: (i) for the most recent year, the ratio of the incurred losses to earned premiums for policies or certificates which have been in force for three years or more is greater than, or equal to, the applicable percentages contained in this Section; and (ii) the expected losses in relation to premiums over the entire period for which the policy is rated comply with the requirements of this Section, an expected third year loss ratio which is greater than or equal to the applicable percentage shall be demonstrated for policies or certificates in force less than three years.

D. As soon as practical, but no later than 30 days prior to the effective date of Medicare benefit changes required by the Medicare Catastrophic Coverage Act of 1988, every insurer, health care service plan or other entity providing Medicare supplement insurance or contracts in this state (except employers subject to the reimbursements of Section 421 of the Medicare Catastrophic Coverage Act of 1988), shall file with the commissioner, in accordance with the applicable filing procedures of this state:

1. Appropriate premium adjustments necessary to produce loss ratios as originally anticipated for the applicable policies or contracts. Such supporting documents as necessary to justify the adjustment shall accompany the filing.

Every insurer, health care service plan or other entity providing Medicare supplement insurance or benefits to a resident of this state pursuant to Section 2 of the Medicare Supplement Insurance Minimum Standards Model Act shall make such premium adjustments as are necessary to produce an expected loss ratio under such policy or contract as will conform with minimum loss ratio standards for Medicare supplement policies and which are expected to result in a loss ratio at least as great as that originally anticipated in the rates used to produce current premiums by the insurer, health care service plan or other entity for such Medicare supplement insurance policies or contracts. No premium adjustment which would modify the loss ratio experience under the policy other than the adjustments described herein should be made with respect to a policy at any time other than upon its renewal date or anniversary date. Premium adjustments shall be in the form of refunds or premium credits and shall be made no later than upon renewal if a credit is given, or

within 60 days of the renewal date or anniversary date if a refund is provided to the premium payer. Premium adjustments shall be calculated for the period commencing with Medicare benefit changes.

2. Any appropriate riders, endorsements or policy forms needed to accomplish the Medicare supplement insurance modifications necessary to eliminate benefit duplications with Medicare. Any such riders, endorsements or policy forms shall provide a clear description of the Medicare supplement benefits provided by the policy or contract.

#### Section 10. Filing Requirements for Out-of-State Group Policies

Every insurer providing group Medicare supplement insurance benefits to a resident of this state shall file a copy of the master policy and any certificate used in this state in accordance with the filing requirements and procedures applicable to group accident and health policies issued in this state; provided, however, that no insurer shall be required to make a filing earlier than 30 days after insurance was provided to a resident of this state under a master policy issued for delivery outside this state.

#### Section 11. Prohibited Compensation for Replacement with the Same Company

No entity shall provide compensation to its agents or other producers which is greater than the renewal compensation which would have been paid on an existing policy if the existing policy is replaced by another policy with the same company where the new policy benefits are substantially similar to the benefits under the old policy and the old policy was issued by the same insurer or insurer group.

#### Section 12. Required Disclosure Provisions

##### A. General Rules

1. Medicare supplement policies shall include a renewal, continuation or non-renewal provision. The language or specifications of such provision must be consistent with the type of contract to be issued. Such provision shall be appropriately captioned, shall appear on the first page of the policy, and shall clearly state the duration, where limited, or renewability and the duration of the term of coverage for which the policy is issued and for which it may be renewed.

2. Except for riders or endorsements by which the insurer effectuates a request made in writing by the insured, exercises a specifically reserved right under a Medicare supplement policy, or is required to reduce or eliminate benefits to avoid duplication of Medicare benefits; all riders or endorsements added to a Medicare supplement policy after date of issue or at reinstatement or renewal which reduce or eliminate benefits or coverage in the policy shall require a signed acceptance by the insured. After the date of policy issue, any rider or endorsement which increases benefits or coverage with a concomitant increase in premium during the policy term must be agreed to in writing signed by the insured unless the benefits are required by the minimum standards for Medicare supplement insurance policies, or if the increased benefits or coverage is required by law. Where a separate additional premium is charged for benefits provided in connection with riders or endorsements, such premium charge shall be set forth in the policy.

3. A Medicare supplement policy which provides for the payment of benefits based on standards described as "usual and customary", "reasonable and customary", or words of similar import shall include a definition of such terms and an explanation of such terms in its accompanying outline of coverage.

4. If a Medicare supplement policy contains any limitations with respect to pre-existing conditions, such limitations must appear as a separate paragraph of the policy and be labeled

as "Pre-existing Condition Limitations".

5. Medicare supplement policies or certificates, other than those issued pursuant to direct response solicitation, shall have a notice prominently printed on the first page of the policy or attached thereto stating in substance that the policyholder or certificate holder shall have the right to return the policy or certificate within 30 days of its delivery and to have the premium refunded if, after examination of the policy or certificate, the insured person is not satisfied for any reason. Medicare supplement policies or certificates, issued pursuant to a direct response solicitation to persons eligible for Medicare by reason of age, shall have a notice prominently printed on the first page or attached thereto stating in substance that the policyholder or certificate holder shall have the right to return the policy or certificate within 30 days of its delivery and to have the premium refunded if, after examination, the insured person is not satisfied for any reason.

6. Insurers issuing accident and sickness policies, certificates or subscriber contracts which provide hospital or medical expense coverage on an expense incurred or indemnity basis, other than incidentally, to a person(s) eligible for Medicare by reason of age shall provide to all applicants a Medicare Supplement Buyer's Guide in the form developed jointly by the National Association of Insurance Commissioners and the Health Care Financing Administration. Delivery of the Buyer's Guide shall be made whether or not such policies, certificates or subscriber contracts are advertised, solicited or issued as Medicare supplement policies as defined in this regulation. Except in the case of direct response insurers shall deliver the buyer's guide to the applicant upon request but not later than at the time the policy is delivered.

##### B. Notice Requirements

1. As soon as practicable, but no later than 30 days prior to the annual effective date of any Medicare benefit changes, every insured, health care service plan or other entity providing Medicare supplement insurance or benefits to a resident of this state shall notify its policyholders, contract holders and certificate holders of modifications it has made to Medicare supplement insurance policies or contracts in a format acceptable to the commissioner for the years 1989 and 1990, and if prescription drugs are covered in 1991, such notice shall be in a format prescribed by the commissioner or in the format prescribed in Appendices A, B, and C if no other format is prescribed by the commissioner. In addition, such notice shall:

a. include a description of revisions to the Medicare program and a description of each modification made to the coverage provided under the Medicare supplement insurance policy or contract, and

b. inform each covered person as to when any premium adjustment is to be made due to changes in Medicare.

2. The notice of benefit modifications and any premium adjustments shall be in outline form and in clear and simple terms so as to facilitate comprehension.

3. such notices shall not contain or be accompanied by any solicitation.

##### C. Outline of Coverage Requirements for Medicare Supplement Policies

1. Insurers issuing Medicare supplement policies or certificates for delivery in this state shall provide an outline of coverage to all applicants at the time application is made and, except for direct response policies, shall obtain an acknowledgement of receipt of such outline from the applicant; and

2. If an outline of coverage is provided at the time of

application and the Medicare supplement policy or certificate is issued on a basis which would require revision of the outline, a substitute outline of coverage properly describing the policy or certificate must accompany such policy or certificate, when it is delivered, and must contain the following statement, in no less than 12 point type, immediately above the company name:

“NOTICE: Read this outline of coverage carefully. It is not identical to the outline of coverage provided upon application and the coverage originally applied for has not been issued.”

3. The outline of coverage provided to applicants pursuant to Paragraph (2) shall be in the form prescribed below:

(COMPANY NAME)  
OUTLINE OF MEDICARE  
SUPPLEMENT COVERAGE

1. Read your Policy Carefully - This outline of coverage provides a very brief description of the important features of your policy. This is not the insurance contract and only the actual policy provisions will control. The policy itself sets forth in detail the rights and obligations of both you and your insurance company. It is, therefore, important that you READ YOUR POLICY CAREFULLY!

2. Medicare Supplement Coverage - Policies of this category are designed to supplement Medicare by covering some hospital, medical and surgical services which are partially covered by Medicare. Coverage is provided for hospital inpatient charges and some physician charges, subject to any deductibles and copayment provisions which may be in addition to those provided by Medicare, and subject to other limitations which may be set forth in the policy. The policy does not provide benefits for custodial care such as help in walking, getting in and out of bed, eating, dressing, bathing and taking medicine (delete if such coverage is provided).

3. A. (for agents:)

Neither (insert company's name) nor its agents are connected with Medicare.

B. (for direct responses:)

(insert company's name) is not connected with Medicare.

4. (A brief summary of the major medical benefit gaps in Medicare Parts A and B with a parallel description of supplemental benefits, including dollar amounts (and indexed copayments or deductibles, as appropriate), provided by the Medicare supplement coverage in the following order:)

THIS POLICY YOU PAY  
PAYS

DESCRIPTION

SERVICE

PART A

INPATIENT HOSPITAL SERVICES:

- Semi Private Room & Board
- Miscellaneous Hospital Services & Supplies, such as Drugs
- X-Rays, Lab Tests & Operating Room

SKILLED NURSING FACILITY CARE

BLOOD

PARTS A & B

- Home Health Services

PART B

MEDICAL EXPENSE:

- Services of a Physician/ Outpatient Services
- Medical Supplies other than Prescribed Drugs

BLOOD

MAMMOGRAPHY SCREENING

OUT-OF-POCKET MAXIMUM

PRESCRIPTION DRUGS

MISCELLANEOUS

- Home IV-Drug Therapy
- Immunosuppressive Drugs

Respite Care Benefits

In addition to this outline of coverage, (insurance company name) will send an annual notice to you 30 days prior to the effective date of Medicare changes which will describe these changes and the changes in your Medicare supplement coverage.

5. (The following charts shall accompany the outline of coverage:)

Part A  
MEDICARE BENEFITS IN

Service	1988	1989	1990	1991
Inpatient Hospital Services:	All but \$540 for first 60 days/benefit period	All but (\$564) deductible for an unlimited number of days/calendar year	All but Part A deductible for an unlimited number of days/calendar year	All but Part A deductible for an unlimited number of days/calendar year
Semi-Private Room & Board	All but \$135 a day for 61st-90th days/benefit period			
Miscellaneous Hospital Services & Supplies, such as Drugs, X-rays, Lab Tests & Operating Room	All but \$270 a day for 91st-150th days (if the individual chooses to use 60 non-renewable lifetime reserve days)			
	Nothing beyond 150 days			

PART A (Continued)

Skilled Nursing Facility	100% of costs for 1st 20 days (after a 3 day prior hospital confinement)  All but \$67.50 a day for 1st-100th days  Nothing beyond 100 days	80% of Medicare reasonable costs for first 8 days per calendar year w/out prior hospitalization requirement	80% for 1st 8 days/calendar year	80% for 1st 8 days/calendar year
Blood	Pays all costs except nonre- placement fees (blood de- ductible) for first 3 pints in <i>each benefit period</i>	Pays all costs except pay- ment of deductible (equal to costs for first 3 pints) <i>each calendar year</i> . Part A blood deductible reduced to the extent paid under Part B	All but blood deductible (equal to costs for first 3 pints)	All but blood deductible (equal to costs for first 3 pints)

Part B  
MEDICARE BENEFITS IN

Service	1988	1989	1990	1991
<b>Parts A &amp; B:</b>				
Home Health Services	Intermittent skilled nursing care and other services in the home (daily skilled nursing care for up to 21 days or longer in some cases)—100% of covered services and 80% of durable medical equipment under both Parts A & B	Same as '88	Intermittent skilled nursing care for up to 7 days a week for up to 38 days allowing for continuation of services under unusual circumstances; other services,—100% of covered services and 80% of durable medical equipment under both Parts A & B	Same as '90
<b>PART B</b>				
Medical Expenses: Services of a Physician/Outpatient Services	80% of reasonable charges after an annual \$75 deductible	80% after annual \$75 deductible	80% of reasonable charges after \$75 annual deductible until out-of-pocket maximum is reached. 100% of reasonable charges are covered for remainder of calendar year	Same as '90
Medical Supplies Other than Prescribed Drugs				
Blood	30% of costs except nonre- placement fees (blood de- ductible) for 1st 3 pints in <i>each benefit period</i> after \$75 deductible	Pays 80% of all costs except payment of deductible (equal to costs for first 3 pints) <i>each calendar year</i>	Same as '89	Same as '89
Mammography Screening			80% of approved charge for elderly and disabled Medicare beneficiaries - exams available every other year for women 65 and over	Same as '90
Out-of-Pocket Maximum			\$1,370 consisting of Part B \$75 deductible, Part B blood deductible and 20% co-insurance	\$1,370 will be adjusted annually by Secretary of Health and Human Services
Outpatient Prescription Drugs			There is a \$550 total deductible applicable to home IV drug and immunosuppressive drug therapies as noted below	Covered after \$600 deductible subject to 50% co-insurance



Part B  
MEDICARE BENEFITS IN  
(cont'd)

Service	1988	1989	1990	1991
<b>PART B</b>				
Some IV-Drug Therapy			80% of IV therapy drugs subject to \$550 deductible (deductible waived if home therapy is a continuation of therapy initiated in a hospital)	80% of IV therapy drugs subject to standard drug deductible (deductible waived if home therapy is a continuation of therapy drugs initiated in a hospital)
Immunosuppressive Drug Therapy	80% of costs during 1st year following a covered organ transplant (no special drug deductible; only the regular Part B deductible)	Same as '88	Same as '88 for 1st year following covered transplant; 50% of costs during 2nd and following years (subject to \$550 deductible)	Same as '90 (subject to \$600 deductible)
Respite Care Benefit			In-home care for chronically dependent individual covered for up to 80 hours after either the out-of-pocket limit or the outpatient drug deductible has been met	Same as '90

5. Statement that the policy does or does not cover the following:

- a. Private duty nursing;
- b. Skilled nursing home care costs (beyond what is covered by Medicare);
- c. Custodial nursing home care costs;
- d. Intermediate nursing home care costs;
- e. Home health care above number of visits covered by Medicare;
- f. Physicians' charges (above Medicare's reasonable charges);
- g. Drugs (other than prescription drugs furnished during a hospital or skilled nursing facility stay);
- h. Care received outside the U.S.A.;
- i. Dental care or dentures, checkups, routine immunizations, cosmetics surgery, routine foot care, examinations for the cost of eyeglasses or hearing aids.

6. A description of any policy provisions which exclude, eliminate, resist, reduce, limit, delay or in any other manner operate to qualify payments of the benefits described in 4 above, including conspicuous statements;

a. That the chart summarizing Medicare benefits only briefly describes such benefits.

b. That the Health Care Financing Administration or its Medicare publications should be consulted for further details and limitations.

7. A description of policy provisions respecting renewability or continuation of coverage, including any reservation or rights to change premium.

8. The amount of premium for this policy.

D. Notice Regarding Policies or Subscriber Contracts Which Are Not Medicare Supplement Policies.

Any accident and sickness insurance policy or subscriber contract, other than a Medicare supplement policy, disability income policy; basic, catastrophic, or major medical expense policy; single premium nonrenewable policy or other policy

identified in Section 3B of this regulation, issued for delivery in this state to persons eligible for Medicare by reason of age shall notify insureds under the policy or subscriber contract that the policy or subscriber contract is not a Medicare supplement policy. Such notice shall either be printed or attached to the first page of the outline of coverage delivered to insureds under the policy or subscriber contract, or if no outline of coverage is delivered, to the first page of the policy, certificate or subscriber contract delivered to insureds. Such notice shall be in no less than 12 point type and shall contain the following language:

"This (policy, certificate or subscriber contract) is not a Medicare supplement (policy or contract). If you are eligible for Medicare, review the Medicare Supplement Buyer's Guide available from the company."

**Section 13. Requirements for Replacement**

A. Application forms shall include a question designed to elicit information as to whether a Medicare supplement policy or certificate is intended to replace any other accident and sickness policy or certificate presently in force. A supplementary application or other form to be signed by the applicant containing such a question may be used.

B. Upon determining that a sale will involve replacement, an insurer, other than a direct response insurer, or its agent, shall furnish the applicant, prior to issuance or delivery of the Medicare supplement policy or certificate, a notice regarding replacement of accident and sickness coverage. One copy of such notice shall be provided to the applicant and an additional copy signed by the applicant shall be retained by the insurer. A direct response insurer shall deliver to the applicant at the time of the issuance of the policy the notice regarding replacement of accident and sickness coverage. In no event, however, will such a notice be required in the solicitation of "accident only" and "single premium nonrenewable" policies.

C. The notice required by Subsection B above for an insurer, other than a direct response insurer, shall be provided in substantially the following form.

NOTICE TO APPLICANT REGARDING REPLACEMENT OF ACCIDENT AND SICKNESS INSURANCE

According to (your application) (information you have furnished), you intend to lapse or otherwise terminate existing accident and sickness insurance and replace it with a policy to be issued by (company name) Insurance Company. Your new policy provides 30 days within which you may decide without cost whether you desire to keep the policy. For your own information and protection, you should be aware of and seriously consider certain factors which may affect the insurance protection available to you under the new policy.

1. Health conditions which you may presently have (pre-existing conditions) may not be immediately or fully covered under the new policy. This could result in denial or delay of a claim for benefits under the new policy, whereas a similar claim might have been payable under your present policy.

2. You may wish to secure the advice of your present insurer or its agent regarding the proposed replacement of your present policy. This is not only your right, but it is also in your best interest to make sure you understand all the relevant factors involved in replacing your present coverage.

3. If, after due consideration, you still wish to terminate your present policy and replace it with new coverage, be certain to truthfully and completely answer all questions on the application concerning your medical/health history. Failure to include all material medical information on an application may provide a basis for the company to deny any future claims and to refund your premium as though your policy had never been in force. After the application has been completed and before you sign it, reread it carefully to be certain that all information has been properly recorded.

The above "Notice to Applicant" was delivered to me on:

\_\_\_\_\_  
(Date)

\_\_\_\_\_  
(Applicant's Signature)

D. The notice required by Subsection B above for a direct response shall be as follows:

NOTICE TO APPLICANT REGARDING REPLACEMENT OF ACCIDENT AND SICKNESS INSURANCE

According to (your application) (information you have furnished), you intend to lapse or otherwise terminate existing accident and sickness insurance and replace it with a policy de-

livered herewith issued by (company name) insurance company. Your new policy provides 30 days within which you may decide without cost whether you desire to keep the policy. For your own information and protection, you should be aware of and seriously consider certain factors which may affect the insurance protection available to you under the new policy.

1. Health conditions which you may presently have (pre-existing conditions) may not be immediately or fully covered under the new policy. This could result in denial or delay of a claim for benefits under the new policy, whereas a similar claim might have been payable under your present policy.

2. You may wish to secure the advice of your present insurer or its agent regarding the proposed replacement of your present policy. This is not only your right, but it is also in your best interest to make sure you understand all the relevant factors involved in replacing your present coverage.

3. (To be included only if the application is attached to the policy.) If, after due consideration, you still wish to terminate your present policy and replace it with new coverage, read the copy of the application attached to your new policy and be sure that all questions are answered fully and correctly. Omissions or misstatements in the application could casue an otherwise valid claim to be denied. Carefully check the application and write to (company name and address) within 10 days if any information is not correct and complete, or if any past medical history has been left out of the application.

\_\_\_\_\_  
(Company Name)

Section 14. Filing Requirements for Advertising

Every insurer, health care service plan or other entity providing Medicare supplement insurance or benefits in this state shall provide a copy of any Medicare supplement advertisement intended for use in this state whether through written, radio or television medium to the Commissioner of Insurance of this state for review by the commissioner.

Section 15. Separability

If any provision of this regulation or the application thereof to any person or circumstance is for any reason held to be invalid, the remainder of the regulation and the application of such provision to other persons or circumstances shall not be affected thereby.

Section 16. Effective Date

This regulation shall be effective on the 60th day following formal adoption.

\_\_\_\_\_  
(Company Name)

Notice On Changes In Medicare And Your Medicare Supplemental Insurance-1989

Your health care benefits provided by the federal Medicare program will change beginning January 1, 1989. Additional changes will occur on medical benefits in following years. The major changes are summarized below. These changes will affect hospital, medical and other services and supplies provided under Medicare. Because of these changes, your Medicare supplement coverage provided by (company name) will change, also. The following outline briefly describes the modifications in Medicare and in your Medicare supplemental coverage. Please read carefully!

(A brief description of the revisions to Medicare Parts A & B with a parallel description of supplemental benefits with subsequent changes, including dollar amounts, provided by the Medicare supplement coverage in substantially the following format.)

Services	Medicare Benefits		Your Medicare Supplement Coverage	
	Medicare Now Pays Per Benefit Period	Effective January 1, 1989 Medicare Will Pay Per Calendar Year	Your 1988 Coverage Per Benefit Period	Effective January 1, 1989 Your Coverage Will Pay Per Calendar Year
Medicare Part A Services and Supplies	First 60 days-All but \$540 61st to 90th day-All but \$135 a day 91st to 150th day-All but \$270 a day (if individual chooses to use 60 nonrenewable lifetime reserve days) Beyond 150th day-Nothing	Unlimited number of hospital days after \$(564) deductible		
Skilled Nursing Facility Care	Requires a 3 day prior stay and enter the facility within 30 days after hospital discharge First 20 days-100% of costs 21st through 100th day-All but \$67.50 a day Beyond 100 days-Nothing	There is no prior confinement requirement for this benefit First 8 days-All but \$(22.00) a day 9th through 150th day 100% of costs Beyond 150 days-Nothing		

Services	Medicare Benefits		Your Medicare Supplement Coverage	
	Medicare Now Pays Per Calendar Year	In 1989 Part B Pays the Same as in 1988	Your Policy Now Pays	Effective January 1, 1989 Your Policy Will Pay
Medicare Part B Services and Supplies	80% of allowable charges (after \$75 deductible)	NOTE: Medicare benefits change on January 1, 1990 as follows: 80% of allowable charges (after \$(75) deductible) until an annual Medicare Catastrophic Limit is met. 100% of allowable charges for the remainder of the calendar year. The limit in 1990 is \$1370* and will be adjusted on an annual basis.		
Prescription Drugs	Inpatient prescription drugs only	In 1989 Medicare covers inpatient prescription drugs only.  Effective January 1, 1990 Per Calendar Year 80% of allowable charges for home intravenous (IV) therapy drugs and 50% of allowable charges for immunosuppressive drugs after (\$550 in 1990) calendar year deductible is met.  Effective January 1, 1991 Per Calendar Year Inpatient prescription drugs: 50% of allowable charges for all other outpatient prescription drugs after a \$600 calendar year deductible is met (the deductible will change). Coverage will increase to 60% of allowable charges in 1992 and to 80% of allowable charges from 1993 on.		

\*Expenses that count toward the Part B Medicare Catastrophic Limit include: the Part B deductible and copayment charges and the Part B blood deductible charges.

(ANY ADDITIONAL BENEFITS)

(Describe any coverage provisions changing due to Medicare modifications.)

(Include information about premium adjustments that may be necessary due to changes in Medicare benefits or when premium changes, information will be sent.)

This chart summarizing the changes in your Medicare benefits and in your Medicare supplement provided by (Company) only briefly describes such benefits. For information on your Medicare benefits, contact your Social Security Office or the Health Care Financing Administration. For information on your Medicare supplement (Policy) contact:  
 (Company or for an individual policy-name of agent) (address/phone number)

Appendix B

(Company Name)  
 Notice on changes in Medicare and your Medicare supplement coverage - 1990

Your health care benefits provided by the federal Medicare program will change beginning January 1, 1990. Additional changes will occur in medical benefits in following years. The major changes are summarized below. These changes will affect hospital, medical and other services and supplies provided under Medicare. Because of these changes your Medicare supplement coverage provided by (company name) will change, also. The following outline briefly describes the modification in Medicare and in your Medicare supplement coverage. Please read this carefully!

(A brief description of the revisions to Medicare Parts A & B with a parallel description of supplemental benefits with subsequent changes, including dollar amounts provided by the Medicare supplement coverage in substantially the following format.)

Services	Medicare Benefits		Your Medicare Supplement Coverage	
	Medicare Now Pays Per Calendar Year	Effective January 1, 1990 Medicare Will Pay Per Calendar Year	Your Coverage Now Pays Per Calendar Year	Effective January 1, 1990 Your Coverage Will Pay Per Calendar Year
Medicare Part A Services and Supplies	Unlimited number of hospital days after \$(564) deductible			
Skilled Nursing Facility Care	There is no prior confinement requirement for this benefit.  First 8 days-All but \$( ) a day 9th through 150th day-100% of costs Beyond 150 days-Nothing			
Medicare Part B Services and Supplies	80% of allowable charges (after \$75 deductible) until an annual Medicare Catastrophic Limit is met. 100% of allowable charges for the remainder of the calendar year. The limit in 1990 is \$1370 and will be adjusted on an annual basis.			
Prescription Drugs	Inpatient prescription drugs. 80% of allowable charges for home intravenous (IV) therapy drugs and 50% of allowable charges for immunosuppressive drugs after (\$550 in 1990) calendar year deductible is met.			

\*Expenses that count toward the Part B Medicare Catastrophic Limit include: the Part B deductible and copayment charges and the Part B blood deductible charges.

(ANY ADDITIONAL BENEFITS)

(Describe any coverage provisions changing due to Medicare modifications)

(Include information about premium adjustments that may be necessary due to changes in Medicare benefits or when premium charges information will be sent.)

This chart summarizing the changes in your Medicare benefits and in your Medicare supplement provided by (company) only briefly describes such benefits. For information on your Medicare benefits contact your Social Security Office or the Health Care Financing Administration. For information on your Medicare supplement (Policy) contact:  
 (Company or for an individual policy-name of agent) (address/phone number)

(Company Name)  
 Notice on changes in Medicare and your Medicare supplement coverage-1991)

Your health care benefits provided by the federal Medicare program will change beginning January 1, 1991. Additional changes will occur in medical benefits in following years. The major changes are summarized below. These changes will affect hospital, medical and other services and supplies provided under Medicare. Because of these changes your Medicare supplement coverage provided by (company name) will change, also. The following outline briefly describes the modification in Medicare and in your Medicare supplement coverage. Please read carefully!

(A brief description of the revisions to Medicare Parts A & B with a parallel description of supplemental benefits with subsequent changes, including dollar amounts, provided by the Medicare supplement coverage in substantially the following format.)

Services	Medicare Benefits		Your Medicare Supplement Coverage	
	Medicare Now Pays Per Calendar Year	Effective January 1, 1991 Medicare Will Pay Per Calendar Year	Your Coverage Now Pays Per Calendar Year	Effective January 1, 1991 Your Coverage Will Pay Per Calendar Year
Medicare Part A Services and Supplies	Unlimited number of hospital days after (\$ ) deductible			
Skilled Nursing Facility Care	There is no prior confinement requirement for this benefit.  First 8 days-All but \$( ) a day  9th through 150th day-100% of costs  Beyond 150 days-Nothing			
Medicare Part B Services and Supplies	80% of allowable charges (after \$75 deductible) until an annual Medicare Catastrophic Limit is met. 100% of allowable charges for the remainder of the calendar year. The limit in 1991 is \$ and will be adjusted on an annual basis.			
Prescription Drugs	Inpatient prescription drugs. 50% of allowable charges for all other outpatient prescription drugs, until \$600 calendar year deductible is met.	Inpatient prescription drugs 60% of allowable charges for all other outpatient prescription drugs, until \$652 calendar year deductible is met. Coverage will increase to 80% of allowable charges from 1993 on, and deductible will be adjusted on an annual basis.		

\*Expenses that count toward the Part B Medicare Catastrophic Limit include: the Part B deductible and copayment charges and the Part B blood deductible charges.

(ANY ADDITIONAL BENEFITS)

(Describe any coverage provisions changing due to Medicare modifications)

(Include information about premium adjustments that may be necessary due to changes in Medicare benefits or when premium changes information will be sent.)

This chart summarizing the changes in your Medicare benefits and in your Medicare supplement provided by (company) only briefly describes such benefits. For information on your Medicare benefits contact your Social Security Office or the Health Care Financing Administration. For information on your Medicare supplement (Policy) contact:

(Company or for an individual policy-name of agent)

(address/phone number)

Douglas Green  
 Commissioner of Insurance

## DECLARATION OF EMERGENCY

### Department of Public Safety Office of State Fire Marshal

The Department of Public Safety and Corrections, Office of State Fire Marshal, has exercised the emergency provisions of the Administrative Procedure Act, R.S. 49:953(B), to adopt the following rules to become effective at 8 a.m. on the fifth day of September, 1989. The Department of Public Safety and Corrections, Office of State Fire Marshal, finds the adoption of these rules is necessary due to the imminent peril to public health, safety and welfare which exist due to the unregulated remanufacturing of manufactured housing. Act 356 of the 1989 Regular Session of the Louisiana Legislature, effective September 4, 1989, mandates the Office of State Fire Marshal to license remanufacturers of manufactured housing and to establish certain minimum standards for life safety from the hazards of fire and similar habitable conditions.

### Fire Protection

#### Remanufactured Housing

##### General Provisions and Scope

Whereas manufactured homes built on or after June 15, 1976 have had to be in strict compliance with the Federal Manufactured Home Construction and Safety Standards (24 CFR Chapter XX Part 3280), and whereas many of these homes have had at least one owner, and whereas these same homes may undergo some degree of refurbishing or remanufacturing before being resold to the consuming public, it is the intent of the fire marshal to assure the remanufactured home retains a minimum level of safety to life from the hazards of fire and similar habitable conditions. It is not the intent of the fire marshal, for reasons of impracticality, to assure that each remanufactured home be completely restored or remanufactured to once again be in full compliance with the Federal Manufactured Home Construction and Safety Standards.

##### Definitions

A. *Serial number* refers to the letter and numbers stamped into the foremost cross member of the remanufactured home by the original manufacturer as a means of identification required pursuant to 24 CFR Chapter XX Part 3280.6.

B. *Label* means the acceptable form of certification by the remanufacturer that, under 55:604 is permanently affixed to each transportable section of each remanufactured home.

##### Inspection Information Plate

A. Each remanufactured home shall have an inspection information plate affixed in a secure manner near the main electrical panel or other readily accessible and visible location. Inspection information plates shall contain not less than the following information:

1. The name and address of the remanufactured housing plant, facility, or location in which the manufactured home was remanufactured.

2. The serial number of the unit and the date the unit was remanufactured.

3. The Louisiana label number.

4. The statement, "This remanufactured home was remanufactured in conformance with the minimum standards for life safety as regulated by the Louisiana Office of State Fire Marshal in force at the time of remanufacture."

##### Label

A. A permanent label shall be affixed to each transportable section of each remanufactured home.

B. The label shall be approximately 1-1/2 in. by 3 in. in

size and of a self-adhesive metallic type. The labels shall be stamped with the six digit sequential number.

C. The label shall read as follows:

This label is certification of restoration of this manufactured home being in conformance with the minimum standards for life safety regulated by the Office of State Fire Marshal.

D. The label shall be located approximately four feet up from the floor and 8 in. away from the opening side of the main entry door, or as near to that location on a permanent part of the exterior of the remanufactured home unit as practicable.

E. Labels shall be affixed only at the end of the last stage of production of the remanufactured home and only to a remanufactured home to which the remanufacturer knows by its inspections to be in compliance with all applicable standards and regulations.

F. The remanufacturer shall keep a monthly record of all remanufactured homes to which labels are affixed and forward a copy of each month's report to the fire marshal on or before the tenth day of the following month.

G. A four week supply of labels can be procured by placing an order with the Office of State Fire Marshal on a "Request and Payment for Remanufactured Homes Labels" form. The labels shall be provided to the remanufacturer in a sequentially numbered series.

H. The remanufacturer shall pay a fee of forty dollars for each label ordered by a check made payable to the Office of State Fire Marshal for the total amount of the order.

I. The fire marshal shall reclaim labels where he has reason to believe remanufactured homes are being produced in nonconformance with the applicable standards and regulations.

##### Exit Facilities; Exterior Doors

A. The number and location of exterior doors shall not be diminished below that of the original manufactured design or lower than allowed by 24 CFR Chapter XX Part 3280.105.

B. All exterior doors shall be fully operable.

##### Fire Safety

A. The number and location of smoke detectors shall not be diminished below that of the original manufactured design or lower than allowed by 24 CFR Chapter XX Part 3280.208.

B. All existing smoke detectors shall be cleaned and tested in accordance with standard recommended practices and be fully operable.

C. Any new smoke detector installed for the purpose of replacement of an existing defective detector or as additional protection shall be installed and carry the appropriate labeling as required by 24 CFR Chapter XX Part 3280.208.

D. Flame spread limitations and fire protection requirements shall be those found in 24 CFR Chapter XX Part 3280.203.

##### Egress Windows

A. All existing egress windows shall be fully operable and appropriately identified.

B. Any new egress windows shall meet the standards for type, performance, dimensions, installation, and identification per 24 CFR Chapter XX Part 3280.404.

##### Water Distribution and Drainage

A. All water and drainage piping (existing or replacement) shall be tested and inspected by the remanufacturer in accordance with 24 CFR Chapter XX Part 3280.612.

##### Gas Piping

A. All gas piping shall be tested for leakage by the remanufacturer in accordance with 24 CFR Chapter XX Part 3280.705.

## Electrical Systems

A. All electrical conductors and equipment replaced or repaired within or on a remanufactured home shall be in accordance with 24 CFR Chapter XX Part 3280 Subpart I.

B. Each remanufactured home shall have a dielectric, continuity, and operational test in accordance with 24 CFR Chapter XX Part 3280.810.

## Quality Assurance

A. The remanufacturer shall prepare and submit to the fire marshal for acceptance a quality assurance manual. That manual shall include the manufacturer's quality assurance program, an organizational chart showing the accountability, by position, of the manufacturer's quality control personnel, a description of production tests and test equipment required for compliance with the standards, a station-by-station description of the manufacturing process, a list of quality control inspections required by the remanufacturer at each station, and identification by title of each person who will be held accountable for each quality control inspection. All amendments to the quality assurance manual and all changes in the quality control personnel shall be reported to the fire marshal in writing within 10 days of their occurrence.

B. Labels shall only be affixed by or under the direct supervision of the quality control manager.

## Inspections

A. The inspectors of the state fire marshal shall routinely review records/files of the remanufacturer's quality control department relative to production line inspections and tests to assure adherence to the quality assurance manual. Quality control inspection reports shall be checked to determine what corrective action the quality control manager has taken on items written up against the applicable standards and regulations.

B. The fire marshal inspector shall inspect each remanufactured home at least once in some stage of production. The inspector shall cite any nonconforming condition on an inspection report.

C. All units on the production line/stations shall be inspected each visit.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:912.

Carrol L. Herring  
State Fire Marshal

## DECLARATION OF EMERGENCY

### Department of the Treasury Bond Commission

The Louisiana State Bond Commission amended the commission's rules as originally adopted on November 20, 1976.

The commission amended Rule Number 15 of the original commission rules and increased the maximum amount of authorized lines of credit as follows:

15. *Line of credit* - A line of credit is an authorization to a state agency to proceed with a project and draw from the State Treasury funds for the project prior to the sale of bonds for that project. The maximum amount of lines of credit which may be authorized by commission shall be \$140,000,000. Bonds shall be issued to replenish lines of credit granted in the fiscal year in which the line of credit was granted. No lines of credit may be

granted for a project unless and until either the bonds have been sold or lines of credit have been granted for all projects of higher priority as stated in the comprehensive capital budget adopted by the Legislature. The maximum amount of lines of credit provided herein shall not apply in cases where the commission shall deem an item to be an emergency matter.

Monies advanced on a line of credit for any project shall be spent only in accordance with the description in the bond authorization act authorizing bonds to be issued for that project.

Prior to the execution of any contract or agreement obligating the expenditure of monies received by any state department or agency or any other entity from line of credit funds, the attorney general's office shall be requested to review such proposed contracts or agreements for the sole purpose of determining whether expenditure of funds thereunder is for the purpose of furthering the applicable project adopted by the Legislature. If given, such prior approval by the attorney general's office shall be in writing to the appropriate state department, agency or other entity with a copy to be furnished to the State Bond Commission.

Should the attorney general's office determine that the proposed expenditure of line of credit funds not be in order, no funds may be used to pay obligations which may be incurred if such contracts are executed after an adverse conclusion by the attorney general's office.

All approvals of lines of credit shall be conditioned on compliance by the state department, agency or other entity with the aforementioned procedure, and it shall be their duty to request approval from the attorney general's office, stating to which bond act and to which project the contract or agreement in question pertains. Failure to comply with such procedure by any such department, agency or other entity shall result in the immediate revocation of the line of credit, and all information regarding the possible expenditure of line of credit funds for other than authorized purposes shall be forwarded immediately by the commission to the attorney general's office and the district attorney's office.

This emergency rule is necessary to ensure continued construction and funding of all projects heretofore begun and contained in Priority 1 of the current Capital Outlay Act, Act No. 822 of the 1989 Regular Session of the Louisiana Legislature and a number of projects contained in Priority 2 of said Act.

This rule is effective immediately.

Mary L. Landrieu  
State Treasurer

## DECLARATION OF EMERGENCY

### Department of Wildlife and Fisheries Wildlife and Fisheries Commission

In accordance with the emergency provisions of R.S. 49:953(b), the Administrative Procedure Act, R.S. 49:967 which allows the Wildlife and Fisheries Commission to use emergency procedures to set the trapping season, and R.S. 56:260, and action by the commission on September 7, 1989, the trapping season is hereby established in accordance with the following regulations: no exceptions of these procedures will be permitted, and anyone taking fur bearers contrary to these regulations will be charged in accordance with Title 56 of the Louisi-

ana laws pertaining to Wildlife and Fisheries, appropriate federal laws and regulations, Wildlife and Fisheries Commission regulations, and/or Louisiana Department of Health and Hospitals regulations.

#### Trapping Season Regulations

The fur industry of Louisiana is the result of a major wildlife resource and provides supplemental income for many of the citizens of our state; and as this resource is a renewable natural one, which has proven under wise management to increase in importance; annual harvest of the surplus animals is in keeping with sound wildlife management principles.

The creation of a north and south trapping zone continues to allow for the most efficient harvest of prime furbearers in these two diverse habitat types within the state. Therefore, the Department of Wildlife and Fisheries does hereby establish the 1989-90 furbearer trapping season for the south zone as being December 1, 1989 through February 28, 1990. After carefully considering the market situation for some upland species, especially the raccoon, the department, in an attempt to provide more opportunity for trapping of bobcat and fox after deer hunting seasons are closed, does hereby establish the 1989-90 furbearer trapping season for the north zone as November 20, 1989 through February 15, 1990, with the addition of an experimental season from February 16, 1990, through March 15, 1990, with trapping techniques restricted to the use of Soft-Catch traps (padded jaw traps) or their equivalent. The department secretary shall be authorized to close or extend the trapping season in any portion of the state as biologically justifiable.

Federal restrictions imposed by the CITES Scientific Authority for otter and bobcat furs continue to require placement of an export tag prior to out-of-state shipment. The regulations governing the buying, tagging and shipment of bobcat and otter pelts adopted for the 1989-90 trapping season may be viewed at the Quail Drive office, off Perkins Road, Baton Rouge, LA, phone (504) 765-2811.

Virginia Van Sickle  
Secretary

## Rules

### RULE

#### Department of Culture, Recreation and Tourism Office of Cultural Development Division of the Arts

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Division of the Arts announces the adoption of a revised and amended "Guide to Arts Programs." Notice of intent to adopt the rule was published in the July issue of the *Louisiana Register*.

The rule, published pursuant to authority established in R.S. 20:894, sets out the rules governing the submission of applications for arts grants in programs administered by the division and the administration of such grants.

The deadline for applications for the 1990-91 grant year is 4:30 p.m., March 1, 1990.

### RULE

#### Department of Culture, Recreation and Tourism Office of Cultural Development

#### Division of the Arts

#### Chapter 3. Division of the Arts

#### §301. Introduction: Arts Programs in Louisiana

A. Louisiana State Arts Council and the Division of the Arts: Believing that public support for the arts is in the public interest, the Louisiana State Legislature has created the Louisiana State Arts Council (also called the Council or LSAC) and the Louisiana Division of the Arts (also called the Division or DOA) to administer state arts programs.

B. The Louisiana State Arts Council, made up of 22 members appointed by the governor, is an advisory body to the division regarding matters relating to support of the arts in Louisiana. The council is responsible for making recommendations on cultural policy, for preparing an annual state plan for the arts, for initiating and coordinating statewide arts programs, for providing technical assistance to community and state arts organizations, and for promoting other artistic activities in the state. Further, the council is responsible for the allocation of arts grant funds.

C. The Division of the Arts, the "official state arts agency," is in the Office of Cultural Development, Department of Culture, Recreation and Tourism. The division administers state and federal funds appropriated for arts grants in Louisiana.

D. Philosophy of Assistance: The Louisiana State Arts Council has formally adopted the following policy statement: The arts are an essential part of life in Louisiana. Each citizen has the right to the arts. The Louisiana State Arts Council is a catalyst for participation, education, development, and promotion of excellence in the arts. It is our responsibility to support established arts organizations, nurture emerging organizations, and assist individual artists.

1. The council and the division, aware that funds are not sufficient to address all the needs of the arts in Louisiana, agree that their resources are best used to the following ends:

- a. the support of organizations which have demonstrated their ability to present or to sponsor programs of demonstrable quality and professionalism with significant impact on the community and the state;
- b. the support of quality arts activities which are the result of community-based effort and planning;
- c. the support of individual artists in their creative work;
- d. the promotion of consideration for the aesthetic quality of the physical environment;
- e. the initiation of arts activities which are statewide in scope and impact;
- f. further, the division and the council believe that their role is to supplement the resources of existing arts organizations. Grants are not designed to serve as the primary source of funds for an organization.

2. Goals. The council and the division have adopted the following goals as appropriate means of achieving the ends set forth in their philosophy of assistance:

- a. to assist in providing access to quality arts experiences to the people of Louisiana;
- b. to promote a variety of artistic activities within the state and to make the arts available to every segment of the population;
- c. to assure the equitable distribution of grants to all of the



arts and to all areas of the state;

d. to encourage private-sector support of arts activities so as to enable the arts and artists to flourish;

e. to develop partnerships between state and local arts agencies as these bodies determine arts policy and implement projects;

f. to emphasize the importance of the arts as an integral part of basic education;

g. to aid in the identification, conservation, and presentation of Louisiana folk culture;

h. to promote professionalism in the arts;

i. each of the goals established by the council and the division is important to the state and its citizens.

#### E. Advisory Panels

1. The council and the division have established advisory panels to assist in administering arts grant programs. Panelists are experienced artists, arts administrators, and other professionals knowledgeable in the arts who have been recommended by individuals, organizations, and division staff. The council selects panelists to represent all geographic areas and differing aesthetic and cultural perspectives. Appointments are for one year and may be extended to no more than three consecutive years. Contact the division for the forms to be used to nominate panelists.

2. The specific functions of advisory panels are to advise the council and the division concerning the appropriateness of levels of support requested in grant applications, to provide ratings relative to the artistic and administrative merit of proposed projects, and to evaluate the work of applicants for fellowships.

3. Panels have been appointed to review proposals in the following areas: Arts Development, Dance, Design Arts, Folklife, Literature, Media, Music, Theater, Visual Arts and Crafts, Arts in Education, Presenters, Local Arts Agencies, and Major Arts Institutions.

#### F. The Grants Process

1. Grant applications are due in the division office by 4:30 p.m. on the announced deadline date, usually the first working day in March.

2. The application review process takes approximately five months from the receipt of an application until the applicant is notified that a grant has been approved. Grant recipients should not expect payment for at least three months after approval by the council.

3. All first-time applicants should contact division staff to discuss applications as soon as possible after they receive the Guide to Arts Programs and application forms. Organizations or individuals who have previously applied for division grants may find it useful to discuss planned applications with division staff before the deadline.

4. During the review and approval phase, the application goes through the following steps:

a. The division receives the application, determines that the applicant and the proposal are eligible for assistance, and that the application complies with division guidelines.

b. The appropriate advisory panel evaluates the proposal and makes recommendations.

c. The division reviews the application and prepares recommendations.

d. The application (with recommendations from the advisory panel and the division) is referred for further review to the Executive Committee of the council which acts as the Grants Review Committee. Recommendations and proposed grant amounts are incorporated into the Preliminary Funding Report. Preliminary funding recommendations will be available upon re-

quest after the meeting of the Grants Review Committee.

e. Recommendations in the Preliminary Funding Report are subject to reevaluation by way of a modified appeals procedure provided that applicants who wish to make use of the procedure request reevaluation in writing within a specified time period. Contact the division after May 15 to find out dates on which the Preliminary Funding Report will be completed and the final date for requesting reevaluation. Such requests must contain a justification indicating that actions of the advisory panel or the Grants Review Committee were based upon insufficient or incorrect information resulting from something other than the fault of the applicant. Written requests for reevaluation should be directed to the director of the Division of the Arts.

f. The director reviews all requests for reevaluation and provides recommendations to the Grants Review Committee.

g. The Grants Review Committee considers requests for reevaluation along with the director's recommendations and amends the Preliminary Funding Report appropriately.

h. The Preliminary Funding Report is approved by the council at its next regular meeting. The council determines the applications to be funded and the amount of the grants.

i. The Louisiana Legislature appropriates money for Division of the Arts Grants Programs during its Regular Session. It is only after passage of the Appropriations Bill that the division has an indication of the amount of money available for the grant year.

j. Once an application has been approved and money allocated by the council, and after the division receives its approved budget, applicants receive notification of approval and formal grant agreements are processed. Subject to the availability of funds and the initiation of project activities, grant payments usually begin in early October.

In no instance does the division release funds until there is a signed grant agreement between the division and the recipient of a grant.

k. A grantee may not change the budget or scope of a project until the grantee has submitted a written request for an amendment to the grant agreement and the request has been approved by the division.

l. Within 30 days of the completion of grant-sponsored activities, grantee organizations must submit a Final Report accounting for all income and expenditures and an evaluation of the completed project or services.

### §303. Eligibility and Administration

#### A. Eligibility

1. The council and the division make grants to qualified organizations under a number of programs. Grants to individuals are available through the Individual Artist Program and the Project Assistance Program (provided that an eligible organization agrees to act as Fiscal Agent). Individual artists may also apply to be listed in the *Louisiana Artist Roster* to become eligible for artist residencies. For more information, see the program descriptions elsewhere in this publication. Organizations domiciled in Louisiana are eligible to apply for grants to support arts activities taking place in Louisiana.

2. Applicants should study carefully the description of each program, paying particular attention to the standards and conditions for eligibility. If there are any questions as to eligibility, request a determination from the Division of the Arts immediately.

3. Eligible applicants generally fall into one of the following categories:

a. Non-profit organizations with a letter from the Internal

Revenue Service declaring the organization exempt from federal income tax under §501(c)(3) of the Federal Tax Code.

b. Public or private educational institutions, such as school boards and elementary or secondary schools. Private educational institutions must meet the requirements for non-profit organizations.

c. Colleges or universities sponsoring arts activities intended for community participation (as opposed to academic, credit-producing, or curriculum-oriented projects). Such activities must provide significant access and the probability of significant attendance by the general public as demonstrated by past attendance records, promotional efforts directed to a public audience, and evidence of coordination with a local arts agency, schools, or other community organizations. State college or university salaries or the use of state-owned facilities or equipment may be used only for in-kind match.

d. Agencies of local, parish, or state government such as state or parish libraries, units of municipal government, parish police juries, or agencies of state government.

e. Sub-applicants.

f. Individuals.

B. Administration

1. Grant Amounts and Matching Requirements

a. All grants must be matched at least dollar for dollar. The match may consist of cash or a combination of cash and in-kind contributions.

i. Cash represents a grantee's cash outlay, including contributions to the grantee from other sources, for grant-supported activities, projects, or services.

ii. In-kind contributions represent the monetary value of non-cash contributions provided by the grantee or any other agency, institution, organization, or individual. Generally, administrative costs from state and parish institutions will be considered in-kind match for all division applications. Administrative costs are eligible as cash match in those cases in which additional personnel hired to provide proposed services are not paid with state or federal funds.

iii. Please consult the descriptions of each program for specific funding amounts and additional matching requirements.

b. Generally, the division and the council will not consider requests for less than \$500; consult division staff for additional information.

c. When funds from the National Endowment for the Arts, the Southern Arts Federation, or a local arts agency granting program are to be used as match, the total combined funding from the division and those granting sources may not exceed 50 percent of the total cost of the activity.

d. Under some circumstances, grants from the Louisiana Endowment for the Humanities may be used as match. For additional information, contact staff of the Division of the Arts.

e. An eligible non-profit organization may serve as the Fiscal Agent for up to three projects. There should be a reasonable relationship between the project type and the primary purpose of the fiscal agent; however, the project must clearly be an Individual Artist Project or a project by an independent sub-applicant organization and not an extension of the fiscal agent's programming.

f. Funds requested in support of Individual Artist Projects or projects undertaken by a sub-applicant organization do not affect request ceilings for fiscal agent organizations. However, default of such a project will clearly be the responsibility of the fiscal agent organization.

g. Depending on the type of match required for a particu-

lar grant (either cash or cash and in-kind), all contributions are allowable as part of the grantee's match for a grant when such contributions meet all of the following criteria:

i. they are carefully defined as to use;

ii. they are related to a specific project request;

iii. they are used for costs allowable under this guide;

iv. they are specifically identified as line items in the approved grant budget;

v. they are not used to match grants from other state sources;

vi. they are not revenues collected as a result of indirect costs charged to any public funding source by a division grantee organization or institution;

vii. they are not funds used for prizes, purchase awards, or for food or drink;

viii. They are not state funds paid to the grantee through a legislative appropriation or any other form of financial assistance.

2. Use of Grant Funds

a. The division must receive a signed Grant Agreement before any funds will be disbursed. The budget approved by the division and the original application are considered to be part of the Grant Agreement.

b. All division grant funds and the grantee's matching funds must be used exclusively for expenses incurred within the grant period specified in the Grant Agreement. Grant funds are not transferable and must be used only to pay for services listed in the approved budget.

c. No grant period shall be extended beyond the end of the state fiscal year. Funds not expended at the end of the grant period must be refunded to the division and cannot be reprogrammed into a subsequent fiscal year. At no time shall payment by the division to a grantee exceed the amount specified in the Grant Agreement.

3. Funding Restriction: The council and division do not fund:

a. purchase or long-term rentals of equipment, property, library holdings, or acquisitions;

b. capital improvements such as construction, structural renovation, or restoration;

c. college or university faculty exhibitions;

d. a series of activities presented as a single project;

e. the majority of an organization's scope of programming or regular season of productions;

f. scholarships, purchase awards, or cash prizes;

g. projects using artists' entry or exhibition fees as match funds;

h. projects and tours to take place outside the state;

i. activities intended primarily for fund-raising;

j. food or beverages for hospitality or entertainment functions;

k. requests designed to reduce or eliminate existing deficits;

l. licensing fees of any kind;

m. requests where an indirect cost rate will be charged by a grantee organization or institution;

n. fines, penalties, interest on loans, or costs of litigation.

4. Public Acknowledgement. Each grantee must give credit for grant-supported activities in all printed and broadcast promotion, publicity, advertising, and printed programs by including the following credit line: Supported by a grant from the National Endowment for the Arts, the Louisiana State Arts Council, and the Louisiana Division of the Arts, Office of Cul-

tural Development, Department of Culture, Recreation and Tourism.

5. Compliance with Administrative Regulations

a. Division grantees must comply with all state laws applicable to the grants program and to those federal laws required by the National Endowment for the Arts including "The Drug-Free Workplace Act of 1988" (41 USC 702).

b. Division grantees also must comply with administrative requirements of the state and any additional requirements by the National Endowment for the Arts including those promulgated by the Office of Management and Budget (OMB): OMB Circulars A-128 and A-102 if the grantee is an agency of state or local government or OMB Circulars A-110 or A-133 if the grantee organization is a non-profit organization or university. A list of applicable laws will be made part of the Grant Agreement.

6. Standards for Financial Management

a. A grantee organization must comply with generally accepted accounting procedures. The accounting system should clearly separate grant funds from other revenues and records should identify adequately the source and use of funds for grant-supported activities.

b. All expenditures authorized under the grant shall be itemized and documented with verifiable receipts and in sufficient detail to show the exact nature of each expenditure. In-kind contributions should be documented with adequate records such as time sheets for volunteers or contracts of use for donated equipment or facilities.

c. Grantee organizations must also comply with the following procedures:

i. A grantee must retain records for three years from the date of the Final Report or until all audit findings involving the records have been resolved, whichever is the longer period.

ii. Should the division require it, copies of the documents supporting all expenditures of grant funds must be submitted with the Final Report.

d. Documentation

i. Grantee organizations with unqualified annual audits on file with the division may not have to submit supporting documentation of expenditures with Final Reports. However, the grantee organization must keep appropriate records for the three years specified in the *Standards for Financial Management* section of this publication.

ii. First-time grantees are required to submit documentation with the Final Report until such time as audits are available which include division grants. The division maintains the option of requiring documentation relative to any grant. If, for auditing purposes, supporting documentation is requested at a later date, the grantee is responsible for producing such documentation.

e. Single Audits: The following grantee organizations are required to submit annual Single Audits:

i. Organizations to which OMB Circular A-128 applies

ii. Organizations which receive \$25,000 or more from the division in state funds, federal funds, or a combination of both.

iii. Private universities which must have audits prepared in accordance with OMB Circulars A-110, A-133, or A-122.

iv. Contact the Grants Office of the Division of the Arts for additional information concerning required audits.

f. Final Reports: Within 30 days of completion of grant-sponsored activities, grantee organizations must submit a Final Report on forms supplied by the division. The Final Report must include a full accounting of all income and expenditures and an evaluation of the completed project or services. The grantee

should also supply copies of promotional materials, newspaper accounts, and other written evidence that the project actually took place as well as appropriate black-and-white photographs for the use of the division.

7. Penalties: If the division determines that a grantee has failed to comply with the terms and conditions set forth in the Grant Agreement, that grantee shall become ineligible to receive any remaining payments authorized under the Grant Agreement. For a year following a determination of non-compliance, that grantee will be ineligible to receive any new grants. Subsequent failure to comply with division requirements may result in legal action and the grantee may become ineligible to receive future grants.

**§305. Guidelines for Applications to Grant Programs**

A. General Application Requirements

1. All applications must reach the Grants Office of the Division of the Arts before 4:30 p.m. on the day of the announced deadline, usually the first working day in March. The division will not assume responsibility for lost or misdirected mail nor for late delivery of applications. Late applications will be ineligible.

2. It is important for prospective applicants to study the guidelines for each grant program described elsewhere in this guide to determine the most appropriate programs to which to submit applications. If there are questions, consult with division staff.

3. Applications will be accepted ONLY for arts activities scheduled to begin not earlier than July 1, and end not later than June 30 of the grant year.

4. Eligibility: See the General Eligibility requirements listed in §303 of this Chapter.

5. Requests for grants must be submitted on current grant application forms. The forms may not be altered in any way. Application forms may be requested using a request form by calling the division.

6. Complete the forms, supply appropriate supplemental information, and submit signed originals to the division by 4:30 p.m. on the day of the announced deadline. Consult program descriptions to determine the required supplemental materials. Incomplete applications are ineligible.

7. Submit a separate application form for each project or service. Also, supply a self-addressed, stamped envelope for the return of supplemental materials submitted with the application.

8. When an arts-producing organization applies for support of touring activities, signed letters of intent from the presenting or sponsoring organization must accompany each application.

9. All projects involving art in public places or the creation or production of original works must be accompanied by samples of work by commissioned artists.

10. All applicants should note that submission of a signed grant application to the division constitutes, first, verification that the applicant has read and understood the information contained in this guide, and, second, assurance that the applicant will comply with all rules, regulations, laws, terms, and conditions described in this publication or the grant agreement. The original application and the budget approved by the division are considered to be part of the Grant Agreement.

B. Project Assistance Program

1. Purpose. With Project Assistance, the Louisiana State Arts Council and the Division of the Arts offer financial assistance for a wide range of community-oriented arts projects. Project support for specific activities or services, growth and

administrative development, increased arts services for the community, opportunities for involvement of individual artists, and contributions to the cultural enrichment of the general public are all considered. Organizations are expected to work to make projects self-supporting after three consecutive years of division funding.

2. Grant Amounts and Matching Requirements. An applicant may submit no more than three project applications with the total amount requested not to exceed \$20,000.

a. Grants must be matched at least dollar for dollar in either cash or a combination of cash and in-kind contributions. At least 50 percent of the amount requested must be matched with cash.

b. Applicants submitting more than one application for Project Assistance must rank the applications by priority.

3. Eligibility. See §303 of this Chapter.

4. Evaluation Criteria

a. Clear need for the proposed project.

b. Intent to provide educational experiences, expanded public awareness, and public involvement in the arts.

c. Degree to which a project will involve or benefit minorities and special constituencies.

d. Evidence of broad-based participation by the members of the organization and the community in the design of the proposed project.

e. Support of professional Louisiana artists and potential benefits to art forms or to applicant organizations.

f. Direct involvement in the project on the part of qualified, professional artists.

g. Demonstrated quality of the proposed project.

h. Effectiveness of the proposed plan for implementing and evaluating the proposed project.

i. Extent to which there is a defined need for financial support.

j. Degree of cash match and extent to which other funding sources will contribute to the project.

k. Ratio of the number of people served per dollar requested.

l. Appropriateness of proposed budget.

m. Applicant's ability to administer potential grant based on completeness of the application, qualified administrative personnel, past record of cooperation, and compliance with division requirements.

n. Demonstration of significant economic impact within the community.

5. The division and the council do not fund:

a. operating costs not associated with the proposed projects;

b. costs for permanent or primary administrative or artistic staff;

c. activities for a closed membership not open to the public;

d. a series of projects or activities that constitute the majority of an organization's scope of programming or regular season of productions;

e. costs related to the creation of a new organization;

f. re-grants by the applicant to other organizations for programming activities;

g. productions by children;

h. sidewalk art shows outside a festival setting;

i. non-arts oriented exhibitions;

j. restoration projects on historical buildings, sites, or non-arts related collections;

k. the creation of textbooks or classroom materials;

l. projects used for academic degrees;

m. purchase of permanent equipment, capital improvements, acquisition of entire collections or works of art.

6. Arts Development Projects. The purpose of this category is to provide financial assistance for multi-disciplinary projects designed to increase the involvement or the awareness of the general public or to address the needs of a broad range of special constituencies. First efforts at stimulating the arts in a given area of the state and development of initiatives are recognized as important and necessary in this component. Apply under the Arts in Education Program for in-school projects.

7. Dance Projects. The purpose of this category is to assist organizations which make quality dance available to broader audiences and to encourage innovation in dance as an art form with specific projects that strengthen the artistic or administrative abilities of applicant organizations. Applications for projects involving commissions for the creation or production of new work must be accompanied by samples of work by artists involved in the project. See also *Louisiana Dance Initiative* and *Documentation and Samples of Work*, at the end of this Chapter for instructions about submitting samples of work.

8. Design Arts Projects. The purpose of this category is to promote excellence in the design fields of architecture; landscape architecture; urban design; historic preservation and planning; interior design; industrial design; graphic design; and fashion design. This program area provides an opportunity for visual artists and design professionals to collaborate on projects involving design practice, media, theory, research, and education about design. Projects may include publications, audio-visual presentations, films, or conferences.

9. Folklife Projects. This category is designed to support organizations and projects that focus on the traditional arts. The involvement of folklorists or other relevant professionals is strongly encouraged in project planning and implementation. For additional information, see *Louisiana Folklife Program* in §307. See *Documentation and Samples of Work*, at the end of this Chapter, for instructions about submitting samples of work. In addition to the general project assistance evaluation criteria, folklife projects will be evaluated according to the following:

a. evidence that a folk community or material items are to be treated and presented in an appropriate and culturally significant manner;

b. the opportunity to support traditional folk artists or craftsmen;

c. the degree to which the proposed activity would expand awareness and appreciation of folklife and folk artists or craftsmen at the community and statewide level;

d. the assessed quality of materials to be preserved, presented, or identified;

e. the involvement of a trained folklorist.

10. Literature Projects. This category is intended to support specific projects that present the literary arts to the public and to promote the works of poets, novelists, short-story writers, etc. In addition, the category is designed to help support not-for-profit magazines that publish fiction, poetry, creative prose, or literary criticism. Such magazines must have been published at least once and a sample copy must be submitted with the application. See *Documentation and Samples of Work*, at the end of this Chapter, for instructions about submitting samples of work.

11. Media Projects. This category provides financial assistance to organizations involved in film, video, photography, radio, or related media. See *Documentation and Samples of*

Work, at the end of this Chapter, for instructions about submitting samples of work.

12. Music Projects. This category is designed to assist organizations presenting musical programming in all genres. Samples of work must accompany all applications involving the creation or production of new works. See *Documentation and Samples of Work*, at the end of this Chapter, for instruction about submitting samples of work.

13. Theater Projects. This category is designed to assist organizations with projects that make high quality dramatic and musical theater available to a larger audience or which involve the development of non-profit professional theater. Samples of work must accompany applications involving the creation or production of new works. See *Documentation and Samples of Work*, at the end of this Chapter, for instructions about submitting samples of work.

14. Visual Arts and Crafts Projects. This category is designed to support projects or services of museums, art galleries, art centers, and other organizations concerned with visual arts and crafts programming. Priority will be given to activities involving professional artists and craftsmen. Samples of work are required for any project involving commissions for the creation of work for art in public places. See *Documentation and Samples of Work*, at the end of this Chapter, for instruction about submitting samples of work.

#### C. Arts in Education Program

1. Purpose. The Arts in Education Program is intended to strengthen the role of the arts in the educational process and to demonstrate the value of the artist within that process with the idea that development of aesthetic awareness and participation in the arts should be an integral part of every student's learning process. The program provides support for Arts in Education residencies, projects, and presenters.

a. Residencies place professional artists who have been accepted into the *Louisiana Artist Roster* in state public and private, elementary and secondary schools to work and demonstrate their art forms and to share their ideas, talents, and creativity. The program enriches the educational experiences of those it brings together: artists, students, teachers, parents, administrators, and members of the community.

b. Projects are designed to provide students and teachers with the opportunity to participate in arts experiences in educational settings, including but not limited to schools.

c. The Arts in Education presenter category is intended to defray costs of booking and touring of in-school performances or exhibitions. Applicants sponsoring touring events available through the Southern Arts Federation (SAF) should notify the division of their intent to apply for SAF support.

#### 2. Grant Amounts and Matching Requirements

a. Grants may be requested for up to 50 percent of the total cost of a project or artist residency. Grants must be matched at least dollar for dollar in cash or a combination of cash and in-kind contributions. At least 50 percent of the amount requested must be matched with cash.

b. Applicants may submit no more than three applications with the total request not to exceed \$25,000.

c. Applicants submitting more than one application to this program must rank the applications by priority.

d. Applicants for Arts in Education Presenters projects may request not more than 50 percent of the engagement fee of a performing arts company or 50 percent of the combined cost of the fee, shipping, and insurance for an exhibition. Arts in Education Presenter grants must be matched at least dollar for

dollar in cash.

e. Applicants should work to make Arts in Education Projects and Residencies self-supporting after three consecutive years of division funding.

#### 3. Eligibility

a. See §303 of this Chapter.

b. Schools must obtain approval from their school boards for all residency applications. A letter of such approval must accompany all residency applications.

#### 4. Evaluation Criteria

a. Extent to which the proposal has been designed to assure maximum student participation.

b. Degree of broad-based planning reflecting student, teacher, parent, administration, and artist participation in the development and design of the proposal.

c. Extent to which professional artists are involved in program implementation.

d. Amount of financial commitment by the organization, school board, or school.

e. Extent of long-range planning.

f. Impact of the proposed activity on the school or school system.

g. Appropriateness of proposed budget.

h. Clarity and strength of objectives.

i. Qualifications of individuals directly responsible for implementing the proposal.

j. Potential artistic quality of the proposed activity.

k. Appropriateness of the proposed efforts for documentation and evaluation.

l. Past record of assuming responsibility for funding artist residencies after three consecutive years of funding from the Division of the Arts.

m. Duration (number of days per site) of residency or project educational activity.

n. Extent to which a proposal addresses teacher training and curriculum development or enhancement.

#### 5. The council and the division do not fund:

a. recurring or traditional school activities;

b. payment of administrative or teaching staff for any school or school system;

c. artists in residence filling teacher vacancies;

d. residencies that do not allow for contact between the resident artist and students during regular school hours;

e. residencies during which the school or school system does not provide studio time and space for the growth and development of the artist.

6. Arts In Education Residencies. The Arts in Education Residency Program places professional artists or folklorists in educational settings to teach the elements of their disciplines to students and teachers and, when it is appropriate, to relate their art forms to other curriculum areas. The program is intended to provide sustained interaction among artists, students, teachers, administrators, and members of the community and to stimulate continuing collaboration for the support of the arts programs.

a. To be eligible to receive division funding in the Arts in Education Residency Program, applicants must hire an artist or folklorist listed on the approved *Louisiana Artist Roster*.

b. To insure quality arts experiences and to assist artists, schools, and school systems, the division has compiled the Louisiana Artist Roster for the use of grant applicants. A professional advisory panel identifies and approves professional artists or folklorists for residencies in schools throughout the state.

c. Contact the division for a copy of the Louisiana Artist

Roster. See "Individual Artist Programs" for application procedures to the Louisiana Artist Roster.

d. An artist's placement in a school system is considered a residency when the artist or folklorist is employed by a school or school system for a minimum of one semester and serving a maximum of four schools per semester. Both long-term (40+ days per site or school) and short-term (11-40 days) residencies are funded in this program area.

e. Note: Visiting Artists (1-10 days per site) are funded under Arts in Education Projects.

f. Restriction: Requests for residencies involving the same artist and site for more than three years will be ineligible.

g. Residencies should be designed to involve artists in educational settings to complement rather than to replace teachers in the arts or in any other academic discipline.

#### h. Types of Residencies

i. Residencies may involve any of the following disciplines: crafts, dance, design, arts, media arts, folklife, literature, music, theater, or visual arts.

ii. A visiting artist in one discipline (e.g. music) may be integrated into a long-term residency in another discipline (e.g. dance or literature).

iii. A trained folklorist or cultural anthropologist may serve in residence to present visiting folk artists, interpret their traditions, and help to integrate folklife into various curriculum areas.

#### 7. Arts in Education Projects and Presenters

a. Arts in Education Projects support specific arts-related activities (other than long-term residencies) which relate to the artistic, educational development of elementary and secondary school students. Projects should focus on the arts as an integral part of the educational environment and should allow for broad community participation in planning and implementation.

Arts in Education Presenter applicants must meet all the requirements for the Presenter Program, but they must submit applications under the Arts in Education Program.

#### D. Presenter Program and the Louisiana Dance Initiative

1. Purpose: Grants under the Presenter Program are intended to defray partially the costs of booking and presenting performances or exhibitions for the general public.

a. All applications permitted under this program must include a general public performance.

b. Applicants sponsoring touring events available through the Southern Arts Federation (SAF) should notify the division of their intent to apply for SAF support. Contact the Division Performing Arts Coordinator for additional details.

c. The Louisiana Dance Initiative is intended to increase the number of quality of dance presentations and residencies throughout the state with particular emphasis on such diverse dance forms and idioms as the ethnic, avant garde, and post-modern. Funds are available to dance companies and presenting organizations to provide support for presenting approved, out-of-state companies and choreographers of professional caliber.

d. Grants funded by the Louisiana Dance Initiative are supported by the Dance on Tour Program of the National Endowment for the Arts. When negotiating agreements under the Louisiana Dance Initiative, presenter organizations must inform the company or choreographer that funds will be requested under this program of the National Endowment for the Arts.

#### 2. Grant Amounts and Matching Requirements

a. Applications for grants under the Presenter Program must be matched by cash. In-kind match is not permitted. Applicants may submit up to three applications for grants under the Presenter Program with the total request not to exceed \$20,000.

b. Under the Louisiana Dance Initiative, applicants may submit two additional grant applications, with the total not to exceed \$20,000. Applicants submitting more than one application to the Presenter or Dance Initiative Program must rank the applications by priority.

c. Performing arts presenters may request up to 50 percent of company or choreographic fees for performances or residencies.

d. Sponsors of exhibitions may request up to 50 percent of the combined cost of the fee, shipping, and insurance for an exhibition.

e. Grants must be matched at least dollar for dollar in cash. In-kind match is not acceptable.

f. When funds from the National Endowment for the Arts, the Southern Arts Federation, or a local arts agency re-granting program are to be used as match, the total combined funding from the division and those granting sources may not exceed 50 percent of the allowable engagement fee.

g. Requests for in-school performances or exhibitions must meet all the requirements for the Presenter Program, but they must be submitted under the Arts in Education Program.

3. Eligibility. Any organization eligible for assistance under the general eligibility guidelines (with the exception of major arts institutions and local arts agencies) may apply for grants from the Presenter Program.

a. Applications must include a copy of a contract or letter of intent signed by both an authorized official of the presenting organization and the provider of services (i.e. the performing arts company or exhibit coordinator). The letter of intent must indicate the nature, cost, and date of contracted services.

b. Contracts between a provider of services and a third party representing the presenting organization are acceptable only when block-booking is arranged by a third party. In such cases, a signed contract between the presenting organization and a third party booking agent must be attached to the letter of intent or the contract between the presenting organization and the provider of services.

#### 4. Evaluation Criteria

a. Past record of successful sponsorship by presenting organizations.

b. Compliance with division grant requirements and procedures.

c. Administrative ability of the presenting organization to sponsor successfully the performance or exhibit.

d. Clearly defined cultural need of the community.

e. Defined financial need of the presenting organization.

f. Extent of residency or workshop activity associated with the performance or exhibit.

g. Adequacy of proposed promotional efforts.

h. Objectivity and effectiveness of proposed methods of evaluation.

i. Significance of the activity in relation to the overall programming of the presenting organization and the proposed audience.

j. Appropriateness of fees and overall budget for the project.

k. Quality of the company, performers, or exhibiting artists to be sponsored by the presenting organization.

l. Accessibility of the presentation to such special constituencies as minorities and the handicapped.

m. Demonstration of significant economic impact within the community.

5. The council and the division do not fund:

- a. touring of in-state, performing arts groups or touring exhibitions supported by grants from other programs administered by the division;
- b. consultants, long-term residencies, or guest artists performing with local groups;
- c. the majority of an organization's scope of programming or regular season of productions.
- d. A series of activities presented as a single project.
- e. Note: Though not eligible under the Presenter Program, applicants for funding of long-term choreographic residencies, guest artists, and consultants are appropriate under the Louisiana Dance Initiative.

E. Local Arts Agencies: Basic and Advanced Programs

1. Purposes: A local arts agency (LAA) is a government agency or non-profit, community organization, officially designated by municipal or parish governments to provide financing, services, or other programs for arts organizations and individual artists within a city, parish, or region of adjacent parishes. The LAA grant program is intended to enhance, stimulate, and nurture partnerships between state and local governments to assure public support for the arts. Further, the program is designed to serve the common goal of cultural enrichment at the state and local level and to acknowledge the diverse methods necessary to meet the specialized needs of individual communities, regions, populations, and art forms.

a. The Basic LAA Program is designed to support local arts agencies in early stages of development. The Advanced LAA Program is designed for mature organizations with a record of successful service and administrative competence.

b. The two components are specialized to meet differing needs as organizations and programs evolve and mature. Each local arts agency must choose the program category best suited to its needs and apply to the appropriate program.

2. Eligibility: In addition to General Eligibility Requirements stated in §303 of this Chapter, organizations or government agencies must meet the following conditions to be eligible to apply for LAA Basic or Advanced Grants:

a. The LAA must be officially designated by the municipal or parish governing body with jurisdiction over the service area to act on its behalf as the local arts agency. Regional arts agencies must be officially designated by each governing body and or LAA which they represent.

b. The LAA must have a governing board with the responsibility and the legal power to set agency policy.

c. The LAA must submit a comprehensive arts plan consistent with standard and format adopted by the division.

3. Evaluation Criteria: The following Eligibility Criteria apply to both LAA Basic Support and LAA Advanced Programs

a. Defined cultural need and potential benefit for LAA development in the community or area.

b. Effectiveness of programs.

c. Potential benefits to artists, arts organizations, and to the community.

d. Degree and breadth of public participation in planning and implementing programs with significant attention to the input and participation of special constituencies.

e. Level of local commitment as evidenced by both cash and in-kind contributions.

f. Evidence of local government support and participation in the development of proposed activities.

g. Objectivity and effectiveness of methods of evaluating proposed activities.

h. Evidence that the organization has an effective and

efficient administration responsible for grant funding.

i. Evidence of significant economic impact within a local community or region.

j. Quality and thoroughness of planning.

k. Ability and readiness to respond to current cultural needs.

l. Appropriate relationship between the budget and proposed activities.

m. Strength of the agency's arts in education initiatives.

n. Note: Additional Evaluation Criteria are listed below under *LAA Advanced Program*.

4. LAA Basic Support

a. Purpose: Basic LAA Grants provide support to communities committed to establishing an LAA and to LAA's in the early stages of development. Basic grants may be used for planning, operations, special projects, or organizational and professional development.

b. Grant Amounts and Matching Requirements: Basic LAA Grant request may not exceed the lesser of \$20,000 or 50 percent of the projected year's budget. Grants must be matched at least dollar for dollar. At least 50 percent of the applicant match must be in cash. The remainder may be in-kind contributions (e.g. an application for a maximum Basic LAA Grant must indicate cash resources of at least \$10,000 and in-kind contributions of \$10,000 or more). Although the cash resources of an organization are considered important, in-kind contributions are a significant indication of community support.

5. LAA Advanced Program

a. Purpose: The LAA Advanced Program is designed for established LAA's that provide diverse programs and services in their communities or region. There should be a significant relationship between local government and the LAA. Grant applications and plans submitted to the division must indicate the impact of LAA activities on the economy of the community or region.

b. Eligibility: In addition to the eligibility requirements for all LAA grants, an LAA applying for funds under the Advanced LAA Program must meet the following criteria:

i. The LAA must have been incorporated and have had non-profit tax status for at least three years prior to application.

ii. The LAA must have at least one full-time, paid professional staff member.

iii. The LAA must provide, with the application, a complete copy of an independent financial audit for the organization's prior year if such audit has not previously been submitted to the division. If applicable, the audit must comply with OMB Circular A-128.

iv. The LAA must demonstrate significant financial support from local government.

c. Grant Amounts and Matching Requirements.

i. Advanced local arts agencies may apply for grants for General Support and for Re-grants to arts organizations within the LAA service area. Grants must be matched in cash that flows through and is part of the LAA operating budget. Applicants must provide a dollar-for-dollar cash match. Although in-kind contributions are not required and may not be used as match for LAA advanced grant, such revenues are indicative of the extent of community support.

ii. Total requests in all Division of the Arts program areas may not exceed the lesser of \$350,000 or 50 percent of the projected year's cash budget excluding Division of the Arts grants.

d. General Support. Applicants may request grants of up

to 25 percent of the agency's actual cash operating revenues for the prior fiscal year (excluding grants from the division). General support funds may be used at the discretion of the agency for a variety of purposes such as arts programs, salaries, artist fees, supplies, or operating expenses.

e. Re-grants

i. Applications for funds to be used for re-granting may not exceed 50 percent of the local public money appropriated by a public governing body and allocated to an LAA for the purpose of re-granting. These local funds must be designated for and committed to the grant period in question. Grants in this category must be used exclusively for re-grants.

ii. Applications for Re-grant funds must include a copy of local grant guidelines in effect on the date of the application. The local grant program must conform to all federal and state laws governing grant making. The quality of the guidelines will be an important factor in the consideration for funding.

f. Evaluation Criteria: In addition to general Evaluation Criteria for the LAA Program, agencies applying as advanced local arts agencies will be evaluated according to the following criteria:

- i. ability to develop, sustain, and increase the commitment of public funds for the support of the arts;
- ii. strength of the agency's regional development initiatives;
- iii. successful community education concerning the necessity for general public support for the arts and the contribution of the arts to the education, economy, and spiritual well-being of the community.

F. Major Arts Institutions

1. Purpose: The Major Arts Institution Program provides support for organizations whose programming has major impact on their communities and on the state's cultural environment. Eligible organizations must have established:

- a. high levels of administrative and artistic professionalism;
- b. a wide range of quality programs;
- c. effective fund-raising;
- d. a full season of at least four major public productions or exhibitions in the resident community;
- e. Provision for free, public performances.

2. Grant Amounts and Matching Requirements

a. Total requests in all Division of the Arts program areas may not exceed the lesser of \$350,000 or 50 percent of the projected year's cash budget excluding Division of the Arts Grants. Also, requests may not exceed 25 percent of the prior year's actual cash operating revenues excluding support from the division and revenues for such capital outlays as construction or permanent renovation projects.

b. Grants must be matched by cash reflected in the operating budget approved by the organization's governing board. Although in-kind contributions are not required and may not be used as match for a grant, such revenues are indicative of the extent of community support.

3. Eligibility. To be eligible under the Major Arts Institution Program, an organization must meet both the general eligibility requirements in §303 of this Chapter and must:

- a. have been incorporated as an arts producing and programming organization for at least three years prior to the application deadline;
- b. have had annual cash operating revenues of over \$100,000 for the preceding year;
- c. have an independent governing board empowered to

formulate policies and execute programs;

d. have paid, professional staff responsible for the administrative and artistic functions of the organization;

e. have a full season of at least four major public productions or exhibitions in the community of origin;

f. have generated state, regional, or national recognition, in the form of articles or reviews, of the institution's activities during the preceding year;

g. have significant educational activities for children and adults;

h. have produced at least one free, community performance during the preceding year.

i. provide, with the application, a complete copy of an independent financial audit for the organization's prior year if such audit has not previously been submitted to the division. If applicable, the audit must comply with OMB Circular A-128.

j. comply with the accumulated deficit policy explained below.

4. Accumulated Deficit Policy. The council has adopted an Accumulated Deficit Policy to assure that major arts institutions demonstrate sufficient fiscal accountability to insure their continued existence.

a. Organizations which have significantly reduced operating or capital deficits within the most recent three fiscal years since fiscal year 1985-86 are not affected by the Accumulated Deficit Policy.

b. An organization which has increased or failed to reduce an operating or capital budget deficit for three consecutive years since the 1985-86 fiscal year is not eligible to apply for a division grant under the Major Arts Institutions Program unless the organization has ended the most recent fiscal year with a balanced budget, can (1) demonstrate that it has made a significant effort to reduce the deficit during the fiscal year preceding the application, and can provide a deficit-elimination schedule approved by its governing body and acceptable to the division and the council.

5. Evaluation Criteria

- a. Artistic excellence
- b. Administrative stability and competence
- c. Quality of administrative and programmatic planning
- d. Extent to which programs or services respond to the needs of the community

e. Extent to which proposed programs reflect quality activities having a positive cultural impact on the community and the state as a whole.

f. Extent of effort to design and produce programs with specifically educational intent

g. Evidence of cooperation or coordination with area cultural institutions, organizations, and other cultural resources

h. Scope of outreach programs designed to serve new audiences and special constituencies such as handicapped persons, multi-cultural artists, folk artists, arts organizations, and rural communities in the region served by the institution

i. Degree of opportunity provided for the involvement and direct support of Louisiana artists

j. Strength of fund-raising efforts in both earned and unearned income

k. Extent to which the organization's revenues reflect a broad base of financial support

l. Objectivity and effectiveness of methods of evaluating the organization and its programs

m. Past records of administrative cooperation and compliance with laws or other provisions governing division grants



n. Significant economic impact within the community

#### G. Individual Artist Programs

1. Purpose. Individual Artist Programs provide support for individual artists through fellowships, apprenticeships, and project assistance.

2. Artist Fellowships. Non-matching Artist Fellowships are awarded to artists of exceptional talent to enable them to pursue their artistic goals.

a. Grant Amounts: Artist Fellowships of up to \$5,000 are available to artists selected from each discipline. The council may award more than one fellowship per discipline but does not guarantee that an artist in each subcategory or discipline will receive a fellowship.

b. Applicants must designate a specific discipline and subcategory in which to be considered:

- i. Crafts: Glass, Ceramics, Fiber, Wood, Metals, etc.;
- ii. Dance: Performance or Choreography;
- iii. Design Arts: Architecture; Landscape Architecture; Urban Design; Historic Preservation and Planning; Interior Design; Industrial Design; Graphic Design; and Fashion Design;
- iv. Folklife: Traditional Arts and Crafts, and such performing arts as Music, Storytelling, and Dance;
- v. Literature: Fiction, Nonfiction, and Poetry;
- vi. Media: Film, Audio, Video, or Photography;
- vii. Music: Vocal Performance, Instrumental Performance, or Composition;
- viii. Theater: Dramatic Performance (Acting), Screen Play, or Play Writing;
- ix. Visual Arts: Painting, Printmaking, Drawing, Sculpture, etc.

c. Eligibility: Applicants should have demonstrated professional experience in their fields, with a serious career commitment and some degree of peer acceptance either as emerging artists of outstanding promise or established artists with a body of work.

i. The applicant must be a legal resident of Louisiana, living in the state for at least the 24 consecutive months prior to the application deadline.

ii. Absences from this state for six or more months during the two years prior to the application deadline disqualify the artist.

iii. Students or persons enrolled in an arts-related degree or certificate-granting program are not eligible.

iv. No artist may submit more than one fellowship application per grant deadline.

v. Previous recipients of Division Fellowships are not eligible to apply; the division encourages former applicants who have not received a fellowship to reapply.

vi. Artists must submit samples of work with their application. See *Documentation and Samples of Work* at the end of this Chapter.

d. Evaluation Criteria (Artist Fellowships): Artist Fellowships will be awarded primarily on the basis of the quality of the work submitted for review. The identities of applicants will not be disclosed to panelists during the initial review in order to assure that the judging process is anonymous and based solely on the quality of the work submitted. After the initial review, panelists will be provided additional information about the applicants. During the second state of review, panelists will consider the following criteria in addition to the quality of work:

- i. demonstrated creativity and technical proficiency in the artist's respective discipline;
- ii. artistic focus and consistent artistic development as ev-

idenced by the body of work submitted with the application;

iii. record of achievement and activity;

iv. quality and appropriateness of documentation and samples or work accompanying the application. For example, inferior or flawed reproductions such as slides, recordings, video tapes, manuscripts, etc., are a liability;

v. impact of the fellowship on the artist's career.

3. Folklife Apprenticeships. Folklife Apprenticeships enable master folk artists or craftsmen and apprentices to study together for a period of time so that master folk craftsmen, musicians, or storytellers are able to pass on their skills within their communities.

a. Grant Amounts. Non-matching apprenticeship grants of up to \$5,000 are available to master folk artists and apprentices who will work together during an apprenticeship period. Applications may be submitted by either party, but descriptive information and samples of work should be submitted by both the apprentice and the master.

b. Eligibility. Applicants should be seriously committed to the apprenticeship and have some degree of peer acceptance either as a master or a potential apprentice.

i. The applicant must be a legal resident of Louisiana and have lived in the state for at least the 24 consecutive months prior to the application deadline.

ii. Absences from this state for six or more months during the two years prior to the application deadline disqualify the applicant.

iii. Students or persons enrolled in an arts-related degree or certificate granting program are not eligible.

iv. No applicant may submit more than one apprenticeship application per grant deadline.

v. Previous recipients of apprenticeships are not eligible to apply; the division encourages former applicants who have not received an apprenticeship to reapply.

vi. Both master folk artists and potential apprentices must submit samples of work with their application. See *Documentation and Samples of Work* at the end of this Chapter.

a. Evaluation Criteria (Folklife Apprenticeships)

i. Quality of work of both the master teacher and the apprentice.

ii. Significance of the art form or skill be be perpetuated or documented through the teacher-pupil experience.

iii. Sufficient time for the apprenticeship to achieve meaningful results.

iv. Benefits to the master artists or craftsman, the apprentice, and the community.

v. Potential for follow-up and spin-off activities.

vi. Demonstrated commitment by both parties to the apprenticeship arrangement.

4. Louisiana Artist Roster. The Division of the Arts awards grants to Louisiana school systems and other non-profit organizations for Arts in Education residencies and projects. The Arts in Education Program is designed to allow students and teachers the opportunity to participate in sustained arts experiences within educational settings.

a. In order to serve as a resident artist, the artist must have been accepted to the *Louisiana Artist Roster*. Artists must submit samples of work and three letters of recommendation.

b. Artists applying in two disciplines must submit two complete applications with appropriate documentation and samples of work. See *Documentation and Samples of Work* at the end of this Chapter.

c. After three years, previously accepted roster artists

must re-apply to the Louisiana Artist Roster.

d. The application deadline for the *Louisiana Artist Roster* is the same as that for other programs.

e. Evaluation Criteria (Artist Roster): Applications will be reviewed by an artist-selection panel using the following criteria:

- i. previous training, education, and experience;
- ii. proven expertise and professionalism as evidenced by samples of work;
- iii. Ability to function successfully in a residency setting.

#### H. Individual Artist Projects. Fiscal Agents

1. Purpose. Projects of exceptional merit initiated by individual artists may be supported through the Division Project Assistance Program when the individual artists can arrange for a qualified non-profit organization to act as fiscal agent for the project. While the fiscal agent is not required to provide financial support for the proposed project, the agent organization must accept fiscal accountability for the project in accordance with state and federal laws regarding Division Project Assistance grants.

a. No part of the division grant may be used to defray administrative costs of the organization acting as fiscal agent.

b. The division recommends that the fiscal agent and the individual artist have a third-party contractual agreement outlining the terms of the sponsorship.

c. An Individual Artist Project must comply with all Project Assistance eligibility requirements and will be reviewed in relation to Project Assistance Criteria appropriate to the artistic discipline involved.

d. An eligible non-profit organization may serve as the fiscal agent for up to three projects. There should be a reasonable relationship between the project type and the primary purpose of the fiscal agent; however, the project must clearly be an Individual Artist Project and not an extension of the fiscal agent's programming.

e. Funds requested in support of Individual Artist Projects or sub-applicant organizations do not affect request ceilings for fiscal agent organizations. However, default of such a project clearly will be the responsibility of the fiscal agent organizations. For more information about Individual Artist Projects, contact the Division of the Arts.

I. Documentation and Samples of Work: Documentation of recent work, in format and number requested, must accompany the application form. Applications that do not include the requested documentation will be determined ineligible. Note: Award decisions are based heavily on documentation and samples of work. Therefore, it is very important to submit documentation (slides, audio recordings, film, or video tape) of the highest quality.

1. Crafts: Craftsmen should refer to the Visual Arts section for instructions on submitting documentation

2. Dance: Dance Performance and Choreography: Submit two selections of up to 10 minutes each from recent work performed or choreographed in the form of VHS or standard 3/4 inch video cassettes. Each tape should be clearly marked selection #1 or selection #2. Tapes should be cued to the sections you want reviewed. It is recommended that each selection be on a separate tape. Clearly list the following information on each cassette: your name, title of piece, length of the work, and date performed or choreographed. Please attach an additional sheet listing the names of all performers with the names of the roles they portray on the tape.

3. Design Arts. Artists working in the Design Arts should refer to the Visual Arts section for instructions on submitting documentation.

#### 4. Folklife.

a. Material Culture. Artists working in this category should refer to the Visual Arts section for instructions on submitting documentation. Instrument makers must submit slides of their work as well as an audio cassette documenting the sound of the instrument. Follow the instructions for submitting samples of work that are found in the Music category. If the instrument maker is also the performer, please indicate.

b. Performing Traditions: Artists working in this category should refer to the music performance sections for instructions on submitting documentation.

5. Literature: Fiction, Non-fiction, and Poetry: Submit eight, collated, clearly reproduced copies of the materials listed below based on the artist's primary area of expertise. Works may have been published but must be submitted as typed manuscript. Note: Your name and address must appear only on the cover page; your name must not appear on other pages of the manuscript as the initial review is anonymous.

a. Fiction and Non-fiction: Submit eight copies of a maximum of 30 pages of recent work. Manuscripts must be typed double-spaced on one side of an 8 1/2" x 11" sheet.

b. Poetry: Submit eight copies of a maximum of 15 pages of recent work. Poems must be typed on one side of an 8 1/2" x 11" sheet and may be single spaced, but no more than one poem should be on a single page.

#### 6. Media.

a. Film and Video. Artists working in film and video should submit two 10-minute selections of recent work on VHS or standard 3/4 inch video cassettes or 16 mm film. Each sample should be clearly marked selection #1 or selection #2. Video should be cued to the selections you want reviewed. Clearly list the following information on each sample: your name, title of piece, date produced, and total playing time. Please attach an additional sheet listing the names and roles of all performers and technicians involved in producing the tape.

b. Photography: Photographers should refer to the Visual Arts section for instructions on submitting documentation. Please note, original prints will not be accepted as documentation. Photographers must submit slides only.

c. Audio: Artists working in audio should submit two 10-minute selections of recent work in reel to reel or standard audio cassette format. Each tape should be clearly marked selection #1 or selection #2. Tapes should be cued to the sections you want reviewed. Clearly list the following information on each cassette: your name, title of the piece, length of the work, and date produced. Please attach an additional sheet listing the names and roles of all performers or technicians involved in producing the tape submitted.

7. Music: Instrumental or Vocal Performance and Musical Composition: Submit two pieces total at least ten minutes, each recorded on separate standard audio cassettes or reel to reel tape. Musical composition applicants should include a copy of the score. Each tape is to be cued to the selection you want reviewed and should be clearly marked selection #1 or selection #2. Clearly list the following information on each tape: your name, title of piece, date composed or performed, and length of work. Please attach an additional sheet listing the names of all performers with the names of the instruments they are playing on the tape.

#### 8. Theater

a. Dramatic performance (acting): Submit two 10-minute selections from recent works in the form of VHS or standard 3/4 inch video cassettes. Each tape should be clearly marked selection #1 or selection #2. Tapes should be cued to the sections you

want reviewed. Clearly list the following information on each cassette: your name, title of piece, length of the work, and date performed. Please attach an additional sheet with names of all performers and the roles they portray on the tape.

b. Plays and Screen Plays. Submit eight copies of a maximum of thirty pages of recent work. Submit one complete act or scene. Scripts should be typed in a professional format. If the play is a musical theater piece, an audio tape and score must accompany the script. A plot summary may be included as part of the thirty page sample. Note: Your name and address must appear only on the cover page; your name must not appear on other pages of the manuscript as the initial review is anonymous.

#### 9. Visual Arts

a. Sculpture, Painting, Drawing, Printmaking, and Crafts: Submit a maximum of 10 35mm slides of recent work. Artists should consider quality and consistency in the body of work submitted for review. Slides are reviewed five at a time. Slides #1, #2, #3, #4, and #5 or projected simultaneously, then #6, #7, #8, #9, and #10. If you plan to show a detail of a work, your slides should be ordered in such a way that related slides are projected together.

b. Format: All slides must be clearly numbered 1-10 and placed accordingly in a clear plastic slide sheet. Slides must be suitable for 35mm carousel projection. Glass or thick plastic slide mounts will not be accepted. Label each slide with the following: your name, title of work, date of execution, medium, and dimension (height × width × depth). Place a red dot in the bottom left corner of the slide.

### §307. Special Initiatives

A. Purpose. The Initiatives Program provides the division with a means to initiate activities that address specific needs in the arts identified by the division and by the Louisiana State Arts Council. The objective of the Initiatives Program is to expand the audience for the arts, for the benefit of artists and the cultural heritage of the state, particularly in areas which for geographical or economic reasons historically have lacked exposure to the arts.

B. Arts and Economic Development Initiative. The Arts and Economic Development Initiative provides funds for special projects or activities such as arts promotion, special festivals, or other programs having significant potential for improving the economic development of the state through the arts. Contact division staff for additional information.

C. Comprehensive Arts in Education Initiative. The council has identified arts education as a priority issue. In addition to conferences, seminars, and program assistance, the council is particularly interested in the development of model projects for curriculum-based arts education in K-12 schools. Contact the Arts in Education Coordinators for additional information.

D. Louisiana Dance Initiative. The Louisiana Dance Initiative is a cooperative project with the Dance on Tour Program of the National Endowment for the Arts and the Southern Arts Federation. The Initiative is designed to enhance the number and quality of professional dance presentations in Louisiana and to establish a statewide consortium of dance companies, presenters, and choreographers. The initiative also encourages development of collaborative dance activities to improve the exchange of information and sharing of resources among dance companies and dance presenters across the state. For details, contact the division performing arts coordinator.

E. Rural and Multi-Cultural Development Initiative. The division has established a rural and multi-cultural development initiative to identify artists and arts organizations of all kinds from rural and multi-cultural communities and to offer special assist-

ance and information relative to establishing programs, obtaining grant support, and working with existing arts agencies. In addition, the division has joined with the Southern Arts Federation in developing rural and minority arts centers and presenter-producer organizations. This program will work with established rural and multi-cultural organizations that have demonstrated interest and commitment to presenting the cultural arts in their community and sharing their resources with similar communities. Participating organizations will receive long-term technical assistance, including the identification of additional resources. The program will also provide priority funding for rural and multi-cultural presenters. For more information, contact the rural and multi-cultural program coordinator.

F. Louisiana Crafts Program. The Louisiana Crafts Program is an economic-diversification program designed to stimulate the economy by providing marketing assistance to jury-approved craftsmen. The program provides craftsmen with information about gift shops, museum shops, the tourist market, the corporate gift market, the interior-design market, architects, and other markets which have economic impact on the crafts industry.

1. Benefits to Program Participants. Jury-approved program participants are eligible for such marketing opportunities as the use of a distinctive logo identifying their work as "Handmade by Louisiana Craftsmen," and having samples of their work shown at trade shows and featured in the directory, *Fait a la Main: A Source Book of Louisiana Crafts*. The program is so designed that craftsmen retain complete control over their businesses and can participate at their own levels.

2. Marketing Education. The Louisiana Crafts Program co-sponsors a variety of marketing workshops which may be requested from the Program Manager. The Program also publishes *LOUISIANA CRAFTS MARKETER*, a crafts marketing newsletter available upon request at no charge.

3. Services to Retailers, Festival Organizers, and Design Professionals: Participating craftsmen may choose to provide the Louisiana Crafts Program with samples of their work, photographs, business cards, brochures, and slides which are available by appointment to shop owners, festival organizers, and interior designers. Additionally the Program provides consulting services on a variety of crafts-related topics. Please call the Program Manager to make an appointment.

4. Application Procedure. Contemporary, folk, or revivalist craftsmen are eligible to apply. Craftsmen must submit the application form with five slides of their work. The Crafts Program deadline is June 1.

G. Louisiana Folklife Program. The Louisiana Folklife Program is designed to identify, document, conserve, and present folk culture resources of Louisiana. Folklife includes: the living traditions learned informally over time within ethnic, regional, occupational, and family groups.

1. The council and division support Louisiana folklife in four program areas: (1) Project Assistance, (2) Individual Artist Program, (3) Arts in Education Residencies, and (4) Arts in Education Projects.

2. When the Folklife Program initiates projects in partnership with another organization, it shall be considered the co-producer or co-publisher and share copyright as appropriate.

3. Individuals or organizations planning folklife projects should consult with the folklife program manager whether or not they anticipate applying for a grant.

4. The Louisiana Folklife Program will continue to sponsor or to assist in programming the Louisiana Folklife Festival.

## 5. Special Folklife Programs Include

a. The Louisiana Folklife Survey: The survey is an ongoing project that seeks out traditional artists and communities, documenting them through interview surveys, tape, or film. The survey is useful to teachers, museums, festivals, and other organizations. Any individual or group may nominate individuals with folk skills or knowledge to be included in the division's folklife records.

b. The Creole State: An Exhibit of Louisiana Folklife: The Exhibit features folk artifacts from the diverse ethnic groups throughout Louisiana. It is located in the State Capitol in Baton Rouge. A teacher's guide to the exhibit is available upon request.

c. Louisiana Folklife: A Guide to the State: This resource directory has been compiled to expand awareness and to assist with documentation and presentation of Louisiana folklife. It is available at state, parish, and university libraries.

d. The Louisiana Folklife Recording Series (LFRS): The series documents traditional musicians and storytellers otherwise unlikely to be recorded by commercial labels. Examples of appropriate material include: Afro-American work songs, delta blues, old-time Cajun and country music. Albums from the Louisiana Folklife Recording Series are available at some parish and university libraries.

Henry A. Truxillo  
Secretary

## RULE

### Department of Economic Development Board of Architectural Examiners

Under the authority of LA R.S. 37:144 and in accordance with the provisions of R.S. 49:950 et seq., the Board of Architectural Examiners gives notice that it has amended its rule numbered §317. This amendment reduces from \$100 each day to \$75 each day the amount that each board member receives for attending board meetings and hearings, attending NCARB regional and national meetings, issuing certificates and licenses, reviewing examinations, necessary travel, and discharging other duties, responsibilities, and powers of the board.

#### Title 46

### PROFESSIONAL AND OCCUPATIONAL STANDARDS Part I. Architects

#### Chapter 3. Organization

##### §317. National Council of Architectural Registration Boards

A. The board shall maintain membership in the National Council of Architectural Registration boards (NCARB) and its regional conference. Up-to-date information on the examinations and policies adopted from time to time by NCARB shall be developed by the staff, and reported to the board regularly.

B. The board will cooperate with NCARB in furnishing transcripts of records, giving examinations and rendering other assistance calculated to aid in establishing uniform standards of professional qualification throughout the jurisdiction of NCARB.

C. Effective February 24, 1989, out of the funds of the board each board member shall be compensated at a rate of \$75 for each day in attending board meetings and hearings, attending NCARB regional and national meetings, issuing certificates

and licenses, reviewing examinations, necessary travel, and discharging other duties, responsibilities, and powers of the board. In addition, out of said funds each board member shall be reimbursed actual travel, meals, lodging, clerical, and other incidental expenses incurred while performing the duties, responsibilities, and powers of the board, including but not limited to performing the aforesaid specific activities.

Mary "Teeny" Simmons  
Executive Director

## RULE

### Department of Economic Development Board of Architectural Examiners

Under the authority of LA R.S. 37:144 and in accordance with the provisions of R.S. 49:950 et seq., the Board of Architectural Examiners gives notice that it has amended its rule numbered §1101. This amendment incorporates the increased rates authorized by Act 583 of the 1988 Regular Session.

#### Title 46

### PROFESSIONAL AND OCCUPATIONAL STANDARDS Part I. Architects

#### Chapter 11. Administration

##### §1101. Renewal Procedure

A. Licenses for individual architects shall expire and become invalid on December 31 of each year. Licenses for professional architectural corporations and architectural-engineering corporations shall expire and become invalid on June 30 of each year. An individual architect, professional architectural corporation, and architectural-engineering corporation who desires to continue his or its license in force shall be required annually to renew same.

B. It is the responsibility of the individual architect, professional architectural corporation, and architectural-engineering corporation to obtain, complete, and timely return a renewal form and fee to the board office, which forms are available upon request from said office.

C. Prior to December 1 of each year the board shall mail to all individual architects currently licensed a renewal form. An individual architect who desires to continue his license in force shall complete said form and return same with the renewal fee prior to December 31. The license renewal fee for an individual architect domiciled in Louisiana shall be \$50; the license registration fee for an individual domiciled outside Louisiana shall be \$100. Upon payment of the renewal fee the executive director shall issue a renewal license or registration.

D. Prior to June 1 of each year the board shall mail to all professional architectural corporations and all architectural-engineering corporations currently licensed a renewal form. A professional architectural corporation and an architectural-engineering corporation which desires to continue its license in force shall complete said form and return same with the renewal fee prior to June 30. The renewal fee shall be \$50. Upon payment of the renewal fee, the executive director shall issue a renewal license.

E. The failure to renew a license timely shall not deprive an individual architect of his right to renew thereafter. An individual architect domiciled in Louisiana who transmits his renewal form and fee to the board subsequent to December 31 in the

year when such renewal fee first became due shall be required to pay a delinquent fee of \$50. An individual architect domiciled outside Louisiana who transmits his renewal form and fee to the board subsequent to December 31 in the year when such renewal fee first became due shall be required to pay a delinquent fee of \$100. The delinquent fee shall be in addition to the renewal fee set forth in the preceding Subsection C.

F. The failure to renew its license in proper time shall not deprive a professional architectural corporation or an architectural-engineering corporation of the right to renew thereafter. A professional architectural corporation or an architectural-engineering corporation who transmits its renewal form and fee to the board subsequent to June 30 in the year when such renewal fee first became due shall be required to pay a delinquent fee of \$50. This delinquent fee shall be in addition to the renewal fee set forth in preceding Subsection D.

Mary "Teeny" Simmons  
Executive Director

## RULE

### Department of Economic Development Economic Development Corporation

In accordance with R.S. 49:950 et seq., notice is hereby given that the board of the Louisiana Economic Development Corporation has adopted the following rule:

#### Title 19

#### CORPORATIONS AND BUSINESS

#### Part VII. Louisiana Economic Development Corporation

#### Subpart 4. Small Business Innovative Research Program

#### Chapter 1. Matching Grant Program

#### §101. Purpose

To provide for support of innovative private sector research and development activities that are intended to generate commercial products, processes or services through the provision of grants matching those Phase 1 grants or contracts awarded by the United States Government through its Small Business Innovative Research Program.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2322.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Economic Development Corporation, LR 15: (September 1989).

#### §103. Eligibility

A. Any Louisiana firm which has received a Federal SBIR Phase 1 research award.

B. Any out-of-state firm which agrees to relocate headquarters and research and development operations to Louisiana and has received a Federal SBIR Phase 1 research award.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2322.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Economic Development Corporation, LR 15: (September 1989).

#### §105. Application Process

The application shall include but not be limited to:

1. a copy of the Phase 1 proposal to the federal program;
2. a statement that the applicant has submitted the proposal to the federal program and that they are submitting a notifi-

cation of intent to file with the state program;

3. a use of funds schedule for the requested state grant;

4. a copy of the grant/contract award from the federal program.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2322.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Economic Development Corporation, LR 15: (September 1989).

#### §107. Submission and Review Procedure

A. Applications will be received only after the applicant has submitted an application to the Federal SBIR program. Applications may be submitted through the course of the Phase 1 research period. No applications for match will be received after the expiration date of the federal grant or contract.

B. All applications must be submitted no later than three weeks prior to the scheduled screening committee meeting for consideration at the next scheduled board meeting of the corporation following the screening committee meeting.

C. LEDEC staff shall review the application and make recommendations regarding the use and disbursement of the matching grant funds to the screening committee.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2322.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Economic Development Corporation, LR 15: (September 1989).

#### §109. Term

A. Grant funds must be expended by the firm no later than 30 days after the decision of the federal agency regarding the Phase 2 application or 60 days after the acceptance of the final Phase 1 report by the federal agency if no Phase 2 application is made.

B. Exceptions to this may be made by the board on a case-by-case basis.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2322.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Economic Development Corporation, LR 15: (September 1989).

#### §111. Disbursement and Use of Funds

A. The project proposed for state funding must represent a continuation of and be compatible with the firm's Phase 1 research, and/or

B. Funds may be used to complete Phase 1 research.

C. The funds will be disbursed at the time and in the manner determined by the corporation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2322.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Economic Development Corporation, LR 15: (September 1989).

#### §113. Grant Document

A. The secretary-treasurer of the corporation and one of the following: president of the corporation, chairman of the board or executive director shall execute all necessary legal instruments to effect the grant award.

B. The grant documents must satisfy all legal requirements as evidenced by the written approval of the corporation's attorney.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2322.

HISTORICAL NOTE: Promulgated by the Department of

Economic Development, Economic Development Corporation, LR 15: (September 1989).

**§115. Residency requirement**

A. If a firm that has received Louisiana Small Business Innovative Research matching grant funds moves its headquarters or research and development operations out of Louisiana within five years of receiving the grant, said firm will be immediately obligated to repay the state the full amount of the state matching grant received.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2322.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Economic Development Corporation, LR 15: (September 1989).

**§117. Recision**

A. Recision or reduction of a firm's Federal SBIR grant funds will result in the immediate recision or reduction of the state matching grant to the firm. Any state matching award funds which have been disbursed to the firm and which are determined by the corporation to relate to the recision or reduction, are immediately owed to the corporation and shall be returned to the corporation within seven days of the notice of the recision or reduction of the firm's Federal SBIR award.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2322.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Economic Development Corporation, LR 15: (September 1989).

**§119. Reporting requirements**

A. The applicant shall file a financial and narrative report monthly until state funds have been expended.

B. The applicant shall submit a copy of the final report submitted to federal grant agency along with a final financial report covering the entire state grant period.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2322.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Economic Development Corporation, LR 15: (September 1989).

**§121. Confidentiality**

A. Confidential information in the files of the corporation acquired in the course of duty is to be used solely for the corporation. The corporation is not obliged to give out a credit rating or confidential information regarding any applicant.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2322.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Economic Development Corporation, LR 15: (September 1989).

**§123. Conflict of Interest**

A. No member of the corporation, employee thereof, or employee of the Department of Economic Development, or members of their immediate families shall either directly or indirectly be a party to or be in any manner interested in any contract or agreement with the corporation for any matter, cause, or thing whatsoever by reason whereof any liability or indebtedness shall in any way be created against the corporation. If any contract or agreement shall be made in violation of the provisions of this Section the same shall be null and void and no action shall be maintained thereon against the corporation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2322.

HISTORICAL NOTE: Promulgated by the Department of

Economic Development, Economic Development Corporation, LR 15: (September 1989).

Nadia L. Goodman  
Director

**RULE**

**Board of Elementary and Secondary Education**

Notice is hereby given that the Board of Elementary and Secondary Education, pursuant to notice of intent published June 20, 1989 and under the authority contained in Louisiana State Constitution (1974), Article VIII, Section 3, Act 800 of the 1979 Regular Session, adopted the rule listed below:

Rule 3.01.02.a

The board adopted the ECIA Chapter 2 State Application and ESEA Title II State Application (FY 7/1/89 - 9/30/92). Copies of the document may be seen in the office of the Bureau of Consolidated Educational Programs, State Department of Education or in the office of the Board of Elementary and Secondary Education.

Em Tampke  
Executive Director

**RULE**

**Board of Elementary and Secondary Education**

Notice is hereby given that the Board of Elementary and Secondary Education, pursuant to notice of intent published June 20, 1989 and under the authority contained in Louisiana State Constitution (1974), Article VIII, Section 3, Act 800 of the 1979 Regular Session, adopted the rule listed below:

Rule 3.05.02

The board adopted the State Department of Education's FY'90 Education of Homeless Children and Youth (EHCY) State Plan for submission to the U. S. Department of Education. (Copies of the plan may be seen in the office of Educational Support Programs, State Department of Education, or in the office of the Board of Elementary and Secondary Education.)

Em Tampke  
Executive Director

**RULE**

**Board of Elementary and Secondary Education**

Notice is hereby given that the Board of Elementary and Secondary Education, pursuant to notice of intent published June 20, 1989 and under the authority contained in Louisiana State Constitution (1974), Article VIII, Section 3, Act 800 of the

1979 Regular Session, adopted the rule listed below:  
Rule 3.05.01

The board adopted the State Department of Education's FY'90 State Plan for Migrant Education (ECIA Chapter I Migrant Education) for submission to the U. S. Department of Education. Copies of the plan may be seen in the office of Migrant/Indian Education, State Department of Education or in the office of the Board of Elementary and Secondary Education.

Em Tampke  
Executive Director

## RULE

### Department of Environmental Quality Office of Air Quality and Nuclear Energy Air Quality Division

Under the authority of the Louisiana 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 of the Department of Environmental Quality has amended the Air Quality Regulations to add Chapter 27, entitled "Asbestos-Containing Materials in Schools and Public Buildings" to LAC 33:III. These regulations are added to provide for the identification and abatement of asbestos-containing materials in schools and public buildings that may pose an unreasonable risk to students, school personnel and the public. In addition, the secretary has amended LAC 33:III:6523 to provide for additional permit fees and ADVF fees A through C. These fees will increase operating expenses of asbestos related services which will be passed on to the regulated sector.

These amendments are to become effective upon publication. The amendments are available for inspection at the following locations from 8:30 a.m. until 4:30 p.m.

Department of Environmental Quality, Office of Water Resources, State Land and Natural Resources Building, 625 North Fourth Street, Baton Rouge, LA.

Department of Environmental Quality, Northeast Regional Office, 804 31st Street, Monroe, LA.

Department of Environmental Quality, Northwest Regional Office, State Office Building, 1525 Fairfield Avenue, Shreveport, LA.

Department of Environmental Quality, Southwest Regional Office, 1155 Ryan Street, Second Floor, Lake Charles, LA.

Department of Environmental Quality, Southeast Regional Office, 2945 North I-10 Service Road, Metairie, LA.

Department of Environmental Quality, Acadiana Regional Office, 100 Eppler Road, Lafayette, LA.

Department of Environmental Quality, Lafourche Regional Office, 302 Barataria Street, Lockport, LA.

Paul H. Templet, Ph.D.  
Secretary

## RULE

### Department of Environmental Quality Office of Air Quality and Nuclear Energy Nuclear Energy Division

Under the authority of the Louisiana Environmental Quality Act, R.S. 30:2104.A.(1), and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary of the Department of Environmental Quality amended the Louisiana Radiation Regulations to add Chapter 14, entitled, "Regulation and Licensing of Naturally Occurring Radioactive Materials (NORM)" to LAC 33:XV. In addition, Chapter 25 of the Louisiana Radiation Regulations is amended to add a new fee category to the existing schedule. The amendment to Chapter 25 establishes an initial fee of \$100 and an annual maintenance fee of \$100 for each location subject to the general license issued in §1410.

This amendment to the Louisiana Radiation Regulations is effective September 20, 1989.

## Title 33

### ENVIRONMENTAL QUALITY Part XV. Nuclear Energy

#### Chapter 14. Regulation and Licensing of Naturally Occurring Radioactive Materials (NORM)

##### §1401. Purpose

The regulations in this Chapter establish radiation safety requirements for the possession, use, transfer, and disposal, as approved by the division, of naturally occurring radioactive materials which do not include source, special nuclear or by-product materials regulated pursuant to the licensing requirements in Chapter 3.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2104.A.(1).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Nuclear Energy Division, LR 15: (September 1989).

##### §1402. Scope

These regulations apply to any person who engages in the extraction, mining, beneficiating, processing, use, transfer, or disposal of NORM in such a manner as to technologically alter the natural sources of radiation or their potential exposure pathways to humans.

These regulations also apply to scale deposits in tubulars and equipment and to soil contaminated by the cleaning of scale deposits.

The regulations in this Chapter address the introduction of NORM into materials or products in which neither the NORM nor the radiation emitted from the NORM is considered to be beneficial to the materials or products. The manufacturer and distribution of materials or products containing NORM in which the NORM and/or its associated radiation(s) is considered to be a beneficial attribute are licensed under the provisions of Chapter 3.

This Chapter also addresses waste management, transfer, and disposal with regard to both inactive and active sites and facilities involved in storage and/or cleaning of tubulars and contaminated equipment. In the case of closed or inactive pits, surveys are required only at the time of transfer for unrestricted use.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2104.A.(1).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Nuclear Energy Division, LR 15: (September 1989).

#### §1403. Definitions

As used in this Chapter, the following definitions apply:

*Beneficial attribute or beneficial to the product* means that the radioactivity of the product is necessary to the use of the product.

*Beneficiating* means the processing of materials for the purpose of altering the chemical or physical properties to improve the quality, purity, or assay grade of a desired product.

*Naturally occurring radioactive materials (NORM)* means any nuclide which is radioactive in its natural physical state (i.e., not man-made) but does not include source or special nuclear material.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2104.A.(1).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Nuclear Energy Division, LR 15: (September 1989).

#### §1404. Exemptions

A. Persons who receive, possess, use, process, distribute, and dispose of NORM are exempt from the requirements of these regulations if the maximum radiation exposure level does not exceed 50 microrentgens per hour at any accessible point.

B. Persons who receive source material as authorized under the general license in Section 321 A., and products or materials containing NORM distributed in accordance with a specific license issued by the division or an equivalent license issued by another licensing state are exempt from these regulations.

C. Persons who receive, possess, store, use, process, transfer, sell, manufacture, distribute, or dispose of raw materials, intermediates, process streams, products, by-products (including bauxite refinery and phosphogypsum recycle/reuse raw materials and products), and wastes, related to the production of bauxite refinery and phosphate fertilizer materials, products and by-products, are exempt from these regulations.

D. The manufacturing, distribution, use, transportation, and disposal of the following products/materials are exempt from the requirements of these regulations:

1. potassium and potassium compounds which have not been isotopically enriched in the radionuclide K-40; and
2. Brazil nuts.

E. The wholesale and retail distribution (including custom blending), possession, use, and transportation of the following products/materials are exempt from the requirements of these regulations:

1. phosphate and potash fertilizer;
2. phosphogypsum for agricultural uses;
3. materials used for building construction if such materials contain NORM which has not been technologically enhanced;
4. natural gas and natural gas products; and
5. crude oil and crude oil products.

F. Produced waters from crude oil and natural gas production are exempt from the requirements of these regulations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2104.A.(1).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Nuclear Energy Division, LR 15: (September 1989).

#### §1405. Effective Date

The provisions and requirements of this Chapter shall

take effect September 20, 1989, and shall apply to all facilities, sites, equipment, and/or materials owned or controlled by a person on or after that date.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2104.A.(1).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Nuclear Energy Division, LR 15: (September 1989).

#### §1406. Radiation Survey Instruments

A. Instrumentation shall be capable of measuring one microrentgen per hour through at least 500 microrentgens per hour.

B. Each radiation survey instrument shall be calibrated:

1. at intervals not to exceed six months and after each instrument servicing;

2. at energies and radiation levels appropriate for use; and

3. so that accuracy within plus or minus 20 percent of the true radiation level can be demonstrated on each scale.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2104.A.(1).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Nuclear Energy Division, LR 15: (September 1989).

#### §1410. General License

A. A general license is hereby issued to mine, extract, receive, possess, own, use, and process NORM not exempted in §1404 without regard to quantity. This general license does not authorize the manufacturing or distribution of products containing NORM in concentrations greater than those specified in §1404.A.

B. 1. Facilities and equipment contaminated with NORM in excess of the levels set forth in §1404.A of this Chapter shall not be released for unrestricted use. The decontamination or maintenance of such equipment and facilities shall only be performed by a general licensee for on-site maintenance or by persons specifically authorized by the division or another licensing state to conduct such work. Each general licensee shall establish written procedures to ensure worker protection and for the survey (or screening) of equipment and components to ensure that the levels in §1404.A of this Chapter are not exceeded.

2. Equipment contaminated with NORM in excess of the levels set forth in §1404.A of this Chapter may be released for maintenance and/or overhaul provided the recipient is operating under a general license or is specifically authorized to perform the activity on contaminated equipment. The decontamination, remediation, or maintenance of equipment, facilities, and land shall only be performed by persons operating under a general license or specifically authorized by the division or another licensing state to conduct such work.

C. No person shall transfer land for unrestricted use where the concentration of radium-226 in soil averaged over any 100 square meters exceeds the background level by more than:

1. five pCi/gm, averaged over the first 15 cm. of soil below the surface; and
2. 15 pCi/gm, averaged over 15 cm. thick layers of soil more than 15 cm. below the surface.

D. Persons subject to the general license established by §1410.A shall file the following information with the division: name of owner or possessor, name of responsible person, mailing address, telephone number, address or location where NORM exists. The information shall be submitted to: Nuclear Energy Division; Box 14690; Baton Rouge, LA 70898; attn:



NORM Program. A confirmatory survey for each of the locations shall be submitted within 180 days of the effective date of this Chapter pursuant to the NORM Regulatory Guide issued by the division.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2104.A.(1).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Nuclear Energy Division, LR 15: (September 1989).

**§1411. Protection of Workers During Operation**

Each person subject to the general license in §1410 shall conduct operations in compliance with the standards for radiation protection set forth in Chapters 4 and 10.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2104.A.(1).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Nuclear Energy Division, LR 15: (September 1989).

**Amendment to Chapter 25**

Appendix A to Chapter 25 of the Louisiana Radiation Regulations is changed as follows:

Item II.A.6. is hereby deleted.

Item III. is amended in entirety as follows:

	Initial Fee	Annual Maintenance Fee
III. General License		
A. General license authorized under §1410	100	100
B. All other general licenses which require registration	55	0

Paul H. Templet  
Secretary

**RULE**

**Department of Environmental Quality  
Office of Solid and Hazardous Waste  
Hazardous Waste Division**

Under the authority of the Louisiana Environmental Quality Act, R.S. 30:2001 et seq., and in particular Sections 2183.1 and 2184, and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary has amended the Louisiana Hazardous Waste Regulations, LAC 33:V.Subpart 1.

This rule will require commercial boilers and commercial industrial furnaces burning hazardous waste for recycling purposes to comply with more stringent regulations, including obtaining a permit for operating the combustion unit. These regulations provide performance standards designed to ensure that organic, metals, chlorine, and particulate emissions from commercial boilers and commercial industrial furnaces do not exceed health-based limits.

These regulations become effective upon publication. A copy of the regulations may be obtained by contacting Joan Albritton, Office of Legal Affairs and Enforcement, 625 North Fourth Street, Baton Rouge, LA. The regulations are also avail-

able for inspection at the following locations from 8:30 a.m. until 4:30 p.m.

Department of Environmental Quality, Office of Water Resources, State Land and Natural Resources Building, 625 North Fourth Street, Baton Rouge, LA.

Department of Environmental Quality, Northeast Regional Office, 804 31st Street, Monroe, LA.

Department of Environmental Quality, Northwest Regional Office, State Office Building, 1525 Fairfield Avenue, Shreveport, LA.

Department of Environmental Quality, Southwest Regional Office, 1155 Ryan Street, Second Floor, Lake Charles, LA.

Department of Environmental Quality, Southeast Regional Office, 2945 North I-10 Service Road, Metairie, LA,

Department of Environmental Quality, Acadiana Regional Office, 100 Eppler Road, Lafayette, LA.

Department of Environmental Quality, Lafourche Regional Office, 302 Barataria Street, Lockport, LA.

Paul H. Templet, Ph.D.  
Secretary

**RULE**

**Department of Environmental Quality  
Office of Solid and Hazardous Waste  
Hazardous Waste Division**

Under the authority of the Louisiana 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 has amended the Louisiana Hazardous Waste Regulations, LAC 33:V.Subpart 1.

This rule amends the definitions of solid waste and hazardous waste. It specifies more clearly the exceptions to the definitions of solid waste and hazardous waste and makes the definitions more consistent with those found in the federal regulations.

**Title 33  
ENVIRONMENTAL QUALITY  
Part V. Hazardous Waste and Hazardous Materials  
Subpart 1. Department of Environmental  
Quality – Hazardous Waste  
Chapter 1. General Provisions and Definitions**

**§109. Definitions**

• • • • •

*Hazardous Waste* — a solid waste, as defined in LAC 33:V.109, is a hazardous waste if:

1. it is not excluded from regulation as a hazardous waste under LAC 33:V.105.D.10-19; and

• • • • •

5. Except as otherwise provided in LAC 33:V.105.D.33, any solid waste generated from the treatment, storage, or disposal of a hazardous waste, including any sludge, spill residue, ash, emission control dust, or leachate (but not including precipitation run-off) is a hazardous waste. (However, materials that are reclaimed from solid waste and that are used beneficially are not solid wastes and hence are not hazardous wastes under this provision unless the reclaimed material is burned for energy recovery or used in a manner constituting disposal.)

*Solid Waste* — a solid waste is any discarded material that is not excluded by LAC 33:V.105.D.24, 34, 35, or 36.d or that is not excluded by a variance granted under LAC 33:V.105.D.

\* \* \* \*

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 30:1136 et seq.

**HISTORICAL NOTE:** Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, LR 10:200 (March 1984), amended LR 10:496 (July 1984), LR 11:1139 (December 1985), LR 12:319 (May 1986), LR 13:84 (February 1987), LR 13:433 (August 1987), LR 15:

Paul H. Templet, Ph.D.  
Secretary

## **RULE**

### **Department of Environmental Quality Office of Water Resources Water Pollution Control Division**

Under the authority of Louisiana 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 of the Department of Environmental Quality has revised the Louisiana Water Quality Standards, LAC 33:IX. Chapter 11. This revision improves the Water Quality Standards by providing a clearer, more understandable regulation for protecting state waters. Specific revisions are proposed to sections on antidegradation, exceptions, criteria, application of standards, and numerical criteria tables.

This rule becomes effective upon publication. This rule is available for inspection at the following locations from 8:30 a.m. until 4:30 p.m.

Department of Environmental Quality, Office of Water Resources, State Land and Natural Resources Building, 625 North Fourth Street, Baton Rouge, LA.

Department of Environmental Quality, Northeast Regional Office, 804 31st Street, Monroe, LA.

Department of Environmental Quality, Northwest Regional Office, State Office Building, 1525 Fairfield Avenue, Shreveport, LA.

Department of Environmental Quality, Southwest Regional Office, 1155 Ryan Street, Second Floor, Lake Charles, LA.

Department of Environmental Quality, Southeast Regional Office, 2945 North I-10 Service Road, Metairie, LA.

Department of Environmental Quality, Acadiana Regional Office, 100 Eppler Road, Lafayette, LA.

Department of Environmental Quality, Lafourche Regional Office, 302 Barataria Street, Lockport, LA.

Paul H. Templet, Ph.D.  
Secretary

## **RULE**

### **Department of Health and Hospitals Office of the Secretary**

The Louisiana Department of Health and Hospitals (DHH) has adopted rules to administer Block Grant federal funding for Fiscal Year 1989-90. These federal funds will be administered in accordance with P.L. 97-35, the Omnibus Budget Reconciliation Act of 1981, and federal regulations as published in the *Federal Register*, Vol. 47, No. 129, Tuesday, July 6, 1982, pp. 29472-29493. The rules apply to the Alcohol and Drug Abuse and Mental Health Services Block Grant, the Maternal and Child Health Services Block Grant and the Preventive Health Services Block Grant.

The DHH Offices responsible for administration of programs and services in the Block Grants are as follows:

- (1) Alcohol and Drug Abuse and Mental Health Services Office of Human Services
- (2) Maternal and Child Health Services - Office of Public Health Services
- (3) Preventive Health and Health Services - Office of Public Health Services

Copies of the entire Block Grant Rules may be viewed at the Office of the State Register, 900 Riverside North, Baton Rouge, LA 70804.

David L. Ramsey  
Secretary

## **RULE**

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

The Medical Assistance Program is adopting the following rule which was published as a Notice of Intent in the *Louisiana Register* Vol. 15, No. 7, dated July 20, 1989.

#### **RULE**

a. The bed to population ratio for ICF/MR group and community homes shall not exceed .375 per 1000 population in a service area (unless one of the exceptions set forth below is applicable).

i. Beds which are counted in determining the bed to population ratio are (1) approved licensed beds, and (2) approved but not licensed beds.

ii. Beds which are approved in accordance with the policy outlined in 12502 B.2.e are not counted in the bed to population ratio.

iii. The bed inventory which will be used to determine bed need is that which is current on the date on which the application is deemed complete except as follows: The bed to population ratio will be recomputed during the review period when the report is incorrect due to an error by the department, when bed increases or decreases are reviewed and approved for the area, or when fair hearing decisions or judicial decisions are effective prior to the decision on the application.

iv. The population figures to be used are those for the year in which the application is deemed complete. These figures are compiled by the Louisiana State Planning Office and are available through the Facility Need Review Program.

b. In order for ICF/MR group and community homes to be added, the average annual occupancy rate in the service area shall be 90 percent or greater.

i. The occupancy report used to determine the occupancy rate is that which is current on the date on which the application is deemed complete except as follows: The occupancy report will be recomputed during the review period when the report is incorrect due to an error by the department.

ii. In determining the occupancy rate for community and group homes, beds used in the calculations shall be beds which are approved and licensed.

iii. Beds which are approved in accordance with the policy outlined in 12502 B.2.e are not counted in determining the occupancy rate.

c. Exception for High Occupancy Areas

i. An exception for an overbedded area with high occupancy may be made when all of the following conditions exist:

(a) The statewide bed to population ratio for community and group homes does not exceed .375 per 1000 population; and

(b) The bed to population ratio in the service area for ICF/MR community and group homes is near or exceeds .375 per 1000 population; and

(c) The average annual occupancy rate in the service area for ICF/MR community and group homes is 97 percent or greater; and

(d) The applicant/owner (who is to be the enrolled provider) does not currently have any unlicensed approved beds for which he is to be the enrolled provider.

Under this exception, an applicant may submit only one application in a service area; a subsequent application may not be submitted until all approved beds (for which the applicant is the enrolled provider) in the service area are enrolled and licensed.

d. Exception for large residential ICF/MR's (16 or more beds)

NOTE: Applications for new 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. The large ICF/MR's are subject to the provisions of the Facility Need Review Program for Expedited Reviews for transactions such as purchases, leases and changes in ownership.

i. A facility with 16 or more beds which voluntarily downsizes its licensed bed capacity in order to establish a group or community home will be exempt from the Facility Need Review application process and from the bed need criteria.

The beds in the facility will be de-licensed upon Medicaid certification of the same number of group or community home beds.

ii. Facilities to whom these provisions apply should contact the regional Office of Mental Retardation in the region where the ICF/MR is located. The regional Office of Mental Retardation will approve or disapprove these proposals.

iii. A copy of the application for licensure for the group or community home beds must be submitted to the Facility Need Review Program prior to Medicaid certification. The beds will not be enrolled in Medicaid without authorization from the Facility Need Review Program.

iv. Beds in group and community homes which are approved under this exception are not counted in determining the bed to population ratio or occupancy data for group and community homes under the Facility Need Review Program.

Exception for Gary W. Classmembers

An exception may be made when an ICF/MR community or group home bed is needed for a Gary W. Classmember. Documentation in the form of a memorandum from the assistant secretary of the Office of Mental Retardation is required.

David L. Ramsey  
Secretary

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

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, adopted the following rule in the Medical Assistance Program.

Currently, Intermediate Care Facility Services for the Mentally Retarded are reimbursed under a facility specific methodology. Under this methodology rates for each participating facility are established individually resulting in various rates for the same level of care. Under this rule, the bureau is adopting prospective rates for all private MR facilities who are licensed to provide services to Title XIX recipients. Rates for these providers are being established based upon capacity divisions: eight beds or less; 9-32 beds; and 33 beds or more. Reimbursement for private facilities is based upon the weighted average rates of all providers within each grouping by level of care. Current rates were used to establish the base year rate structure which includes an annual inflation factor adjustment mechanism to assure rates remain reasonable and adequate over time. In the bureau's effort to allow transition from facility specific rates to a flat rate structure, reimbursement will be based upon facility level of care while a client-specific level of care instrument is being refined and validated. Under this reimbursement methodology, providers will continue to be required to submit annual cost reports for evaluation. A chart of accounts and an accounting system on the accrual basis will be used in the evaluation process. Agency personnel or their contractual representative will perform desk reviews of the cost reports within six months of the date of submittal. In addition to the desk review, a representative number of the facilities will be subject to a full-scope, on-sight audit annually. Implementation of this rule shall have no effect on any other standards for payment requirements currently established.

I. Definitions

A. *Private Facilities* - private long term care facilities classified and licensed as intermediate care facilities for the handicapped and/or mentally retarded (ICF-H, ICF-MR) certified to provide services to Title XIX recipients.

B. *Indices*

1. CPI - ALL ITEMS - The Consumer Price Index for all Urban Consumers-South Region (all items line) as published by the United States Department of Labor.

2. CPI - FOOD - The Consumer Price Index for All Urban Consumers - South Region (food line) as published by the United States Department of Labor.

3. CPI - MEDICAL CARE - The Consumer Price Index for all Urban Consumers - South Region (medical care line) as published by the United States Department of labor.

4. WAGE - The average annual wage for production or non-supervisory service workers in SIC code 80 as furnished by

the Dallas Regional Office of the Bureau of Labor Statistics of the U.S. Department of Labor. This figure will be obtained by telephone in May and will be the average annual hourly wage as of December of the prior year. It will be multiplied times 40 hours, times 52 weeks to determine the average annual wage. The adjustment factor derived from the figure will be calculated by dividing the value of the corresponding average annual hourly wage, for December of the year preceding the rate year, by the value of the index one year earlier (December of the second preceding year.)

#### C. Economic Adjustment Factors

1. CPI - All Items Factor
2. CPI - Food Factor
3. CPI - Medical Care Factor

Each of the above economic adjustment factors is computed by dividing the value of the corresponding index for December of the year preceding the rate year by the value of the index one year earlier (December of the second preceding year).

4. Wage Factor - The wage factor is computed in the same manner as the other adjustment factors except that the average annual wage for the calendar year ending in the indicated December is used instead of an index value.

D. Rate Year - The rate year is the one year period from July 1 through June 30 of the next calendar year during which a particular set of rates is in effect. It corresponds to a state fiscal year.

E. Base Rate - The base rate is the rate calculated in accordance with Section II.A, plus any base rate adjustments granted in accordance with G.2 of this Section, and which is in effect at the time of calculation of new rates or adjustments. The base rate was initially calculated using the current weighted average rates for all providers by size grouping (1-8, 9-32, and 33+) and levels of care, plus an inflation adjustment factor. In establishing level of care rates, where there are no enrolled providers for a level of care in a particular provider grouping, the base rate was determined by adjusting the calculated rate for the next level by eight percent. For example, where there was no rate history for a level three provider in a particular grouping, the level four rate was adjusted downward by eight percent to establish a level three rate.

## II. IMPLEMENTATION PROCEDURE

### A. Initial Reporting

The initial cost report submitted by providers must be based on the most recent fiscal year end. The report must contain costs for the 12-month fiscal year.

Limited exceptions to the report requirement will be considered on an individual facility basis upon written request from the provider to the Bureau of Health Services Financing. If an exception is allowed, providers must attach a statement describing fully the nature of the exception for which written permission has been requested and granted prior to filing of the cost report. Exceptions which may be allowed with written approval are as follows:

1. For the initial reporting period only, the provider may allocate costs to the various cost centers on a reasonable basis if the required itemized cost breakdown is not available.
2. If the facility has been purchased, leased, or has effected major changes in the accounting system as an on-going concern, within the past 12 months, a six-month cost report may be filed in lieu of the required 12-month report.
3. If the facility experiences unavoidable difficulties in preparing the cost report by the prescribed due date, an extension may be requested prior to the due date. Request for exception

must contain a full statement of the cause of difficulties which rendered timely preparation of the cost report impossible.

4. If a facility is new, it will not be required to file a cost report for rate setting purposes until one full operating year is completed.

### B. Subsequent Reports

Cost reports shall be submitted annually by each provider within 90 days of the end of the state's fiscal year.

## III. DETERMINATION OF LIMITS

Cost limits will be established based on statistical analysis of industry data to assure that total payments under Title XIX will not exceed Title XVIII reimbursement. The ceiling limitation on reasonable cost will be set at a level the state determines adequate to reimburse an efficiently operating facility. Incentive for efficient operation will be allowed as a profit opportunity; for providers who provide required services at a cost below the industry average.

## IV. INCREASED CAPACITY

Increased bed capacity requires a review by Licensing and Certification and Facility Need Review approval.

## V. SALES OF FACILITIES

In the event of the sale of a Title XIX facility, the seller is required to submit a cost report from the date of its last fiscal year end to date of sale.

If the purchaser continues the operation of the facility as a provider of Title XIX services, he is required to furnish an initial cost report covering the date of purchase to the end of the facility fiscal year under this ownership. Thereafter, the facility will file a cost report annually on the purchaser's designated fiscal year end.

Facilities purchased as on-going concerns are not considered new facilities for cost reporting purposes.

## VI. NEW FACILITIES

For cost-reporting purposes a new facility is defined as:

- A. a newly constructed facility; and,
- B. a facility which has been certified for a higher or lower level of care.

"A facility purchased as an on-going concern is not considered a new facility for reimbursement rate determination. Cost data shall be submitted as required for the original ownership. Any additional costs, such as increased depreciation, interest, etc. will be reflected in the future years per diem rates only."

A new facility is not required to file a cost report for rate setting purposes until one full year has been completed.

A new facility is paid the applicable facility rate. There is no retroactive adjustment for either over - or underpayment to the facility.

## VII. INTERIM ADJUSTMENT TO RATES

If an unanticipated change in conditions occurs which affects the cost of a level of care of at least 50 percent of the enrolled long term care facilities by an average of five percent or more, the rate may be changed. The Bureau of Health Services Financing will determine whether or not the rates should be changed when requested to do so by 10 percent or more of the enrolled providers. The burden of proof as to the extent and cost effect of the unanticipated change will rest with the providers requesting the change. In computing the costs, all capital expenditures will be converted to interest and depreciation. The Bureau of Health Services, however, may initiate a rate change without a request to do so. Changes to the rates may be one of two types: 1) temporary adjustments or 2) base rate adjustments as described below.

### A. Temporary Adjustments

Temporary adjustments may be made in the rate when changes which will eventually be reflected in the economic indices, such as a change in the minimum wage, a change in FICA or a utility rate change, occur after the end of the period covered by the Index, i.e., after the December preceding the rate calculation. Temporary adjustments are effective only until the next rate calculation which used economic adjustment factors based on index values computed after the change causing the adjustment. Temporary adjustments do not affect the base rate used to calculate new rates.

**B. Base Rate Adjustments**

Base rate adjustments may be made when the event causing the adjustment is not one that would be reflected in the Indices. This would normally be a change in licensure standards. Base rate adjustments will result in a new base rate component value(s) which will be used to calculate the new rate for the next year.

**VIII. DETERMINATION OF INFLATION ADJUSTMENT FACTOR**

The determination of the inflation adjustment factor for these levels is described in Section I.C.

**IX. RATE DETERMINATION**

**A. Calculation of the Rate**

A base rate will be calculated for each level of care which the state determines is reasonable to adequately reimburse in full the allowable cost of a provider facility that is economically and efficiently operated. The rate for each level of care will be recalculated periodically to determine the need for establishing a new base rate. The rate for the first year of transition to a flat rate structure (FY 89/90) will be based upon the overall facility level of care as currently determined.

Rates for subsequent fiscal years will be based upon client levels of care determined through the use of an instrument developed and validated by the agency prior to implementation. Rates determined by the bureau will be published in the *Louisiana Register* each year as a potpourri notice. The base rate established for implementation of this reimbursement methodology shall be as follows:

**FLAT RATE LEVEL REIMBURSEMENT**

LEVEL OF CARE	1-8 BEDS	9-32 BEDS	33+ BEDS
2	\$ 80	\$ 58	\$ 55
3	\$ 88	\$ 63	\$ 60
4	\$ 89	\$ 77	\$ 65
5	\$103	\$ 86	\$ 70
6	\$111	\$ 98	\$ 86
7	\$140	\$106	\$ 89

**B. Parameters and Limitations**

Payment will be made in an amount not to exceed the total number of beds occupied by Title XIX recipients which will have been approved by licensing and certification, and Facility Need Review times the number of days in the month times the appropriate level of care rate. Such payment will be considered the total agency payment for all Title XIX recipients in the facility. Leave day policies which apply to recipients in the facility will be applied towards occupancy limits.

**X. LEVEL OF CARE APPEALS**

Level of care determinations may be appealed by providers utilizing the same appeal process afforded to other long term care providers by bureau.

David L. Ramsey  
Secretary

**RULE**

**Department of Natural Resources  
Office of Conservation  
Engineering Division**

**STATEWIDE ORDER NO. 29-L-1**

This Statewide Order adopts rules and regulations for termination of any unit established by the commissioner of conservation pursuant to the authority of Title 30 of the Louisiana Revised Statutes of 1950.

Pursuant to power delegated under the laws of the state of Louisiana, and particularly Title 30 of the Louisiana Revised Statutes of 1950, as amended by Section 9.1 adopted by the Legislature as Act 671 of 1975; and after a hearing held under Docket No. 89-306 in Baton Rouge, LA, on Tuesday, August 1, 1989, following publication of notice and notice thereof, not less than 30 days prior to said hearing in the *Official Journal* of the state of Louisiana, The *State Times* at Baton Rouge, LA, the following rules and regulations are promulgated by the commissioner of conservation as being reasonably necessary to conserve the natural resources of the state, to prevent waste of oil and gas as defined by law, and otherwise to carry out the provisions of the laws of this state. These rules and regulations shall govern the termination of units established by the commissioner of conservation pursuant to authority contained in Title 30 of the Louisiana Revised Statutes of 1950.

**DEFINITIONS**

Unless the context otherwise requires, the words defined in this Section shall have the following meaning when found in this Order.

1. *District Manager* means the manager of any one of the districts of the state of Louisiana under the Office of Conservation, and refers specifically to the manager within whose district the pool for which the unit sought to be terminated is located.

2. *Pool* means an underground reservoir containing a common accumulation of crude petroleum or natural gas or both. Each zone of a general structure which is completely separated from any other zone in the structure is covered by the term pool.

3. *Unit* means all units established for a particular pool, by order of the commissioner of conservation pursuant to authority of Subsection B of Section 9 or Subsection B or C of Section 5 of Title 30 of the Louisiana Revised Statutes of 1950.

4. *Represented Party* means any person, as person is defined in Title 30 of the Louisiana Revised Statutes of 1950, who is known to the applicant after diligent search to own an interest in the pool for which the unit sought to be terminated was established and who is known to have either a consultant or attorney representing him in conservation matters.

5. *Interested Owner* means any owner, as owner is defined in Title 30 of Louisiana Revised Statutes of 1950, who is known to the applicant after diligent search to own an interest within the pool for which the unit sought to be terminated was established.

6. *Interested Party* means any person, as person is defined in Title 30 of Louisiana Revised Statutes of 1950, who owns an interest in the pool for which the unit sought to be terminated was established.

7. *Well* means all wells drilled within the confines of the unit for which termination is sought.

**FINDINGS**

The commissioner of conservation finds as follows:

1. That an administrative procedure should be established to permit the termination of any unit under those certain condi-

tions as set forth hereinbelow, where it is shown that in order to carry out the purposes and intent of the conservation laws of this state such procedure would be in the interest of good conservation practices.

2. That in order to carry out the mandate of the Legislature of the State of Louisiana, as contained in Act 671 of 1975 (Title 30 of Louisiana Revised Statutes of 1950, Section 9.1) rules and regulations should be promulgated to prescribe the procedure by which any interested party, as applicant, may request the issuance of a supplemental order terminating any unit by written application and upon proper showing in the manner hereinafter provided and in the absence of protest without the necessity of a public hearing, when with respect to the pool for which the unit was established, a period of one year and 90 days has elapsed without:

- a. production from said pool; and
- b. the existence of a well proven capable of producing from the pool; and
- c. drilling, reworking, recompletion, deepening or plugging back operations having been conducted on a well to secure or restore production from the pool.

3. That in the event a well deemed not proven capable of producing from the pool on the effective date of unit termination reestablishes production from the pool, or if subsequent to the effective date of unit termination a determination is made that one of the other requirements as set forth in Finding No. 2 hereof was not met, the following procedures should be adhered to:

- a. the commissioner of conservation shall mail legal notice to the district manager, original applicant, and to all interested owners and represented parties shown on the applicant's list in addition to the publication of legal notice in the *Official State Journal*, such notice to contain an explanation of factual situation regarding the unit termination and current productive status of the pool; and
- b. such notice shall provide that unless written protest is received, within 30 days from the date of publication of notice, the commissioner of conservation shall issue a supplemental order rescinding the unit termination order; and
- c. in the event a written protest is timely filed, the party filing said protest shall have a period of 15 days from the date of such protest in which to file an application for a public hearing pursuant to Subsection B of Section 6 of Title 30 of Louisiana Revised Statutes of 1950 requesting an order sustaining the unit termination. If the party filing the protest fails to timely file application for public hearing the commissioner shall issue a supplemental order as deemed appropriate without public hearing.

#### O R D E R

1. On and after the effective date hereof, a supplemental order terminating any unit established by the commissioner may be issued after written application and upon proper showing in the manner provided herein, and in the absence of protest without the necessity of a public hearing.

2. Each application for unit termination shall be filed with the commissioner with a copy to the district manager, each interested owner and represented party and shall include the following:

- a. A plat showing the unit for which termination is being sought with each well located thereon, together with order number and effective date of the order of the commissioner establishing said unit. Each well shall be identified on such plat by operator of record, serial number and well name and number or by reference to an appropriate attachment.

b. A signed statement indicating the status of each well. Should there exist a well which has not been plugged and abandoned in accordance with Statewide Order No. 29-B, Section XIX, sufficient geological, engineering, or other data with detailed explanation thereof to clearly demonstrate that said well is not capable of producing from the pool.

c. A signed statement indicating that with respect to the pool for which the unit was established, to the best of applicant's knowledge a period of one year and 90 days has elapsed without:

1. production from the pool, and
  2. the existence of a well proven capable of producing from the pool; and
  3. drilling, reworking, recompletion, deepening or plugging back operations having been conducted on a well to secure or restore production from the pool.
- d. A list of all interested owners and represented parties to whom a copy of the application has been sent.
- e. An application fee established by Statewide Order No. 29-Q or successor regulation.

3. Notice of the filing of the application of unit termination shall be published in the *Official Journal* of the State of Louisiana giving notice that unless a written protest is filed with the commissioner within the 30-day period from the date of publication of notice, the commissioner may issue a supplemental order for such unit termination. In the event written objection is filed within said 30-day period, the applicant may apply for a public hearing for consideration of the application.

4. In the event a well deemed not proven capable of producing from the pool on the effective date of unit termination reestablishes production from the pool, or subsequent to the effective date of unit termination a determination is made that one of the other requirements as set forth in Finding No. 2 hereof was not met, the procedures set forth in Finding No. 3 shall be adhered to.

5. That the effective date of any supplemental order issued hereunder can not be prior to the expiration of the legal advertisement period, reference Order No. 3 hereof. Consequently, any activity described in Finding No. 2 hereof, including the issuance of a permit to drill a well within the confines of the unit for which termination is sought, occurring between the date of the signed statement, reference Order No. 2(c) hereof and the expiration of the legal advertisement period, shall result in application denial.

6. Any supplemental order issued hereunder approving the application shall terminate all units created for the pool and shall be filed for record as provided in Section 11.1 of Title 30 of Louisiana Revised Statutes of 1950.

This Order shall be effective on and after September 20, 1989.

J. Patrick Batchelor  
Commissioner

#### RULE

### Rules for the State Central Committee of the Louisiana Republican Party

Section I. Function

The function of the Louisiana Republican State Central

Committee is to control, direct and administer the activities of the Louisiana Republican Party, excepting only those duties specifically delegated to the Parish Executive Committees by Louisiana State Law.

Section II. Abbreviations and Definitions

SCC -- State Central Committee of the Louisiana Republican Party

PEC -- Parish Executive Committee

PAC -- Political Action Council

MEMBER -- A duly elected member of the State Central Committee

PARTY -- Louisiana Republican Party

LAW -- Current statutes of the State of Louisiana

CHAIRMAN -- Current Chairman of the State Central Committee

Section III. Qualifications for Office

To be a member of the Louisiana Republican State Central Committee, a candidate must:

A. be a resident of the district from which he or she is a candidate for at least six months prior to election day;

B. be a registered Republican for a minimum of six months prior to election day;

C. qualify as set by law.

Elected Republicans to federal offices and elected Republicans to statewide offices shall be ex-officio non-voting members of the State Central Committee.

Section IV. Officers

The following officers of the State Central Committee must be elected by a majority vote of the State Central Committee:

- |               |                         |
|---------------|-------------------------|
| chairman      | treasurer               |
| vice chairman | national committeeman   |
| secretary     | national committeewoman |

Elections for officers shall be conducted as provided for under applicable state law. Officers' terms shall be for two years with the exception of the national committeeman and the national committeewoman who shall be elected for four years and shall take office at the adjournment of the next National Convention.

All elected officers of the State Central Committee must be duly elected members of the State Central Committee.

The sergeant-at-arms, parliamentarian and legal counsel will be appointed by the chairman with the approval of the Executive Committee.

The national committeeman and the national committeewoman shall prepare a joint written report annually summarizing the year's activities and shall submit it to the State Central Committee at the first quarterly meeting each year.

Section V. Duties of Officers

The chairman shall serve as chairman of all meetings of the State Central Committee, as chairman of the Executive Committee and shall direct the Louisiana Republican Party in all areas as specified by the State Central Committee.

The vice chairman shall serve as chairman in the absence of the chairman. The vice chairman shall perform such other State Central Committee duties as may be required by the chairman.

The secretary shall record the minutes at all meetings of the State Central Committee and distribute them to all members of the State Central Committee within 14 days after each meeting. The secretary shall record all minutes of the Executive Committee Meetings and provide a copy to each State Central Committee member at the next regular State Central Committee meeting.

The treasurer shall be responsible for the accounting of all funds for the Louisiana Republican Party including the state office in Baton Rouge. A report on the finances will be given at each regularly scheduled State Central Committee Meeting. Annually the records shall be prepared and submitted to the Audit Committee.

Section VI. Executive Committee

The Executive Committee shall consist of the chairman, vice chairman, secretary, treasurer, national committeeman and national committeewoman of the State Central Committee. The Executive Committee shall meet monthly and is responsible for the operations of the Party between the meetings of the State Central Committee. An activity report on all subjects handled by the Executive Committee will be made by the vice chairman at each meeting of the State Central Committee. The Executive Committee shall prepare a budget and submit it to the State Central Committee at the first meeting of the State Central Committee each year. A copy of the budget shall be forwarded to each member of the State Central Committee seven days prior to the meeting.

Section VII. Committees

Standing committees shall be:

- |             |                    |
|-------------|--------------------|
| PAC Review  | Voter Registration |
| Rules       | Endorsement Review |
| Credentials | Audit Committee    |

The chairman and members of these standing committees shall be appointed from the membership of the State Central Committee by the chairman with the approval of the Executive Committee.

Additional standing committees may be established by a two-thirds vote of the State Central Committee meeting in regular session.

Ad Hoc committees may be appointed by the chairman for special subjects as deemed by the chairman.

Section VIII. Meetings

The State Central Committee shall meet at least quarterly at a time and place designated by the Executive Committee with a minimum of 21 days prior notice.

Additional meetings may be held upon the request of the Executive Committee or a signed petition by thirty members. Such meetings shall be scheduled by the chairman within thirty days from the date of the request with a 10-day written notice to all members of the State Central Committee.

Meetings shall be conducted in accordance with *Roberts Rules of Order, Newly Revised* except as modified by these rules. Proxies shall be allowed in the taking of the roll, in calculating a quorum and in all votes cast, subject to the limitations established by law. No new business may be conducted before the State Central Committee that has not been previously presented to the Executive Committee or to a standing committee or mailed to the members of the State Central Committee at least five days prior to the meeting. An agenda must be mailed to each member of the State Central Committee at least five days prior to the meeting date.

Section IX. Voting by Proxy

At all meetings of the State Central Committee, members of the State Central Committee may be present in person or by proxy provided that the right of representation and voting by proxy may be exercised only in compliance with the following rules and regulations:

A. The proxy of the State Central Committee member may be given to another State Central Committee member who resides in either the same Congressional District or the same Parish as the giver of the proxy.

B. No State Central Committee member may exercise the proxy votes of more than three other members at any meeting.

C. Proxies must be in writing. They must either be acknowledged before a notary public or must be signed by the giver thereof before two witnesses, who must sign the proxy.

D. No member of the State Central Committee may be represented by proxy at more than two consecutive meetings.

#### Section X. Removal from Office

An elected member of the State Central Committee is subject to removal from office when one of the following occurs:

A. A member establishes residence outside of his or her district.

B. A member is convicted of a felony or a misdemeanor involving moral turpitude.

C. A member changes his or her official registration from Republican.

D. A member is not present at three consecutive regularly scheduled State Central Committee meetings.

E. A member is hired as a full-time employee of the Republican Party of Louisiana.

Upon receipt of notice of any of the above, the Executive Committee will forward the name of the member to the Credentials Committee. The Credentials Committee shall schedule a hearing within 21 days and review all available information on the subject, with a 10-day written notice to the member. Upon completion of this investigation, the Credentials Committee shall make a recommendation to the State Central Committee at the next regularly scheduled State Central Committee meeting.

Removal of a member, after completion of a review by the Credentials Committee, shall be by a two-thirds vote of the State Central Committee at a regularly scheduled meeting. The chairman shall promptly notify the secretary of state.

#### Section XI. Replacement of State Central Committee Members

In the event of removal, death or resignation of a State Central Committee member, the chairman shall promptly notify the secretary of state and the chairman or chairmen of the Parish Executive Committee(s) of the district so affected.

Replacement will be at a subsequent regular meeting of the State Central Committee for the balance of the unexpired term by a majority vote.

#### Section XII. Amending the Rules

These rules may be amended by:

A. recommendation by the Rules Committee at a regularly scheduled State Central Committee meeting followed by a majority vote of the State Central Committee at the next regularly scheduled meeting, or

B. a motion in writing by a State Central Committee member at a regularly scheduled State Central Committee meeting followed by a majority vote of the State Central Committee at the next regularly scheduled meeting.

Amendments will take effect immediately following enactment.

#### Section XIII. Qualifications for Parish Executive Committee Members

In order to qualify and serve as a member of the Republican Parish Executive Committee, an individual must meet the qualifications set forth in Section III of these rules.

William A. Nungesser  
State Chairman

## RULE

### Department of Social Services Office of Community Services

The Louisiana Department of Social Services (DSS, formerly DHH) has adopted a rule to administer Social Services Block Grant (SSBG) federal funds for Fiscal Year 1989/90 in accordance with Public Law 97-35, the Omnibus Budget Reconciliation Act of 1981, and with federal regulations as set forth in the *Federal Register* Vol. 47, No. 129, Tuesday, July 6, 1982, and in subsequent issuances.

The DSS/Office of Community Services will continue to have administrative responsibility for implementation of the SSBG Program in FY 1989/90. The final SSBG Intended Use Report, which complies with Section 2004 of the block grant statute, includes information on the types of activities to be supported and the categories of persons to be served through the State's allocation of SSBG funds, and also through appropriations of state general funds for social services described in this SSBG plan.

A copy of the final SSBG Intended Use Report for FY 1989/90 may be obtained by writing to DSS/Office of Community Services, Box 44367, Baton Rouge, LA 70804.

May Nelson  
Secretary

## RULE

### Department of Social Services Office of Eligibility Determinations

The Department of Social Services, Office of Eligibility Determinations, adopts the following rule in the Individual and Family Grant (IFG) Program.

This was published as an emergency rule because federal regulations as published in the *Federal Register* of Tuesday, March 21, 1989, Vol. 54, No. 53, pages 11610-11654 mandate a March 21, 1989 implementation date. A disaster has been declared in certain areas of Louisiana and will be managed in accordance with these new regulations.

## RULE

The maximum grant amount in the IFG Program has been changed to \$10,000. The amount will be adjusted at the beginning of each federal fiscal year to reflect changes in the Consumer Price Index for All Urban Consumers, published by the U. S. Department of Labor.

The dollar value of the required flood insurance policy for housing and personal property grants where the applicant resides in a flood zone will change to \$7,000 building and \$3,000 contents for a homeowner, and \$10,000 contents for a renter.

May Nelson  
Secretary



## RULE

### Department of Social Services Rehabilitation Services

The Department of Social Services, Rehabilitation Services, has adopted the following rule for its Three-Year State Plan.

#### SUMMARY

Three-Year State Plan covering Fiscal Years 1989, 1990, and 1991 for the Vocational Rehabilitation Services Program and State Plan Supplement for the Supported Employment Services Program required under the Rehabilitation Act of 1973, as amended.

#### RULE

Effective September 20, 1989, Rehabilitation Services' Three-Year State Plan for the Vocational Rehabilitation Services Program and State Plan Supplement for the Supported Employment Services Program required under the Rehabilitation Act of 1973, as amended.

Copies of the Three-Year State Plan may be obtained from Rehabilitation Services' nine regional offices located in the following cities:

Baton Rouge Regional Office, 2097 Beaumont Drive, Baton Rouge, LA 70806.

New Orleans Regional Office, 2026 St. Charles Street, Second Floor, New Orleans, LA 70130.

Shreveport Regional Office, 1525 Fairfield, Room 708, Shreveport, Louisiana 71130.

Monroe Regional Office, State Office Building, Room 311, 122 St. John Street, Monroe, LA 71201.

Alexandria Regional Office, 900 Murray Street, Alexandria, LA 71301.

Houma Regional Office, Box 469, Houma, LA 70361.

Lafayette Regional Office, 302 Jefferson Street, State Office Building, Fifth Floor, Lafayette, LA 70501.

Hammond Regional Office, West Park Professional Building, 1200 Derek Drive, Suite 200, Hammond, LA 70403.

Lake Charles Regional Office, 4016 Avenue F, Lake Charles, LA 70602.

May Nelson  
Secretary

## RULE

### Department of Social Services Rehabilitation Services Commission for the Deaf

Effective July 20, 1989 the Louisiana Commission for the Deaf will amend the Rules of Operation of the commission to include the Telephone Access Program Board, to amend the composition of the Commission's Executive Committee and to amend the parliamentary procedures for the commission.

These proposed amendments have been developed in accordance with LRS 46:2351-2354, enacted by Act 629 of the 1980 Regular Session of the Legislature, as amended by Act 662 of the 1985 Regular Session of the Legislature, as amended by Act 660 of the 1988 Regular Session of the Legislature. These amendments will form the basis for future activities of the Telephone Access Program Board.

## RULES OF OPERATION

### ARTICLE I. NAME

Section 1. The name of the commission shall be the Louisiana Commission for the Deaf, hereinafter referred to as the "Commission," established by Act 629 enacted by the 1980 Regular Session of the General Assembly and signed into law by Governor Treen on July 24, 1980.

### ARTICLE II. PURPOSE OF THE RULES OF OPERATION

Section 1. The purpose of the rules of operation of the Louisiana Commission for the Deaf is to provide for the orderly conduct of the affairs of the commission. These rules of operation are in keeping with the provisions of this Act.

### ARTICLE III. ROLE AND FUNCTION

Section 1. The role and function of the commission, as mandated by law (Act 629, 1980 Legislature, signed by Governor Treen, July 24, 1980; as amended by Act 662, 1985 Legislature, signed by Governor Edwards, July 16, 1985; and as amended by Act 660, 1988 Legislature, signed by Governor Roemer, July 15, 1988), are as follows:

- A. promote, coordinate, and facilitate accessibility of all public and private services to deaf people,
- B. serve as advocate for the needs and rights of deaf people,
- C. collect information concerning deafness and provide for the dissemination of this information,
- D. develop and implement a statewide program to ensure continuity of services to deaf people,
- E. inform deaf citizens, parents, and families of the availability of programs and services for deaf adults and children at all levels of state and local government,
- F. promote the training of interpreters and assist in the establishment of interpreter training programs,
- G. maintain a registry of available interpreters,
- H. provide all services of the commission to deaf people with visual impairments,
  - I. provide interpreter services to the deaf in accordance with rules and regulations adopted by the commission,
  - J. establish, administer, and promote a statewide program to provide access to all public telecommunication services by persons who are deaf, deaf/blind, and others such as severely hearing impaired or severely speech impaired. This program shall include but is not limited to:
    - i. The purchase and distribution of telecommunications devices and related devices for the persons listed above; and
    - ii. The creation of a dual party relay system to function as a communications bridge between members of the deaf and hearing citizenry.

In order to fulfill these objectives of the commission, a full-time staff is necessary. Accordingly, the commission will provide goals, priorities, and guidelines to the staff to assist them in meeting the goals and objectives.

Section 2. As its first objective, after the establishment of a full-time staff, the commission shall work for the development of statewide interpreting services to be provided by the commission in order to facilitate accessibility of existing programs and services provided by public and private service agencies to deaf people as they are presently available to the general public in Louisiana. This will involve working with various agencies to provide them orientation, in-service training and information relative to deafness and interpreting services.

Section 3. In addition, the commission shall serve as a mechanism for providing input to the secretary of the Department of Social Services through the director of Rehabilitation

Services to the State Legislature, and the governor on the needs of hearing impaired individuals. This will include the preparation of the annual report which will review the status of services available to the hearing impaired people in Louisiana, and to recommend priorities for appropriate programs and services to this population.

#### ARTICLE IV. MEMBERSHIP

Section 1. Composition of the Commission. Membership on the commission is specified by law. The commission shall consist of 15 members to be appointed by the governor. Nine of the commission members are designated by law with six members being appointed by the governor. Each appointment by the governor shall be submitted to the senate for confirmation. Beginning in 1984 every appointment confirmed by the senate shall be submitted by the governor to the senate for confirmation every four years after the initial confirmation. These members shall include:

- A. The nine designated members shall include:
1. the coordinator of Vocational Rehabilitation Services to the Deaf,
  2. the president of the Louisiana Association of the Deaf,
  3. the president of the Louisiana Registry of Interpreters for the Deaf,
  4. the superintendent of the Louisiana School for the Deaf,
  5. the secretary of the Department of Social Services, or designee,
  6. the superintendent of Education, or designee,
  7. the secretary of the Department of Labor, or designee,
  8. the speaker of the House of Representatives, or designee,
  9. the president of the Senate, or designee.
- Designated members serve because of the position they hold.
- B. The six appointed members shall include:
1. two lay members who shall be deaf persons,
  2. two lay members who shall be parents of deaf individuals,
  3. two lay members who shall be professionals who work with deaf individuals.

#### Section 2. Term of Office

A. The designated commission members shall serve on the commission so long as each member maintains the position for which each was originally appointed.

B. All appointed members shall serve for four years. In the event a vacancy occurs, the appointment shall be made for the length of the unexpired term. Vacancies occurring other than by expiration of term in the membership shall be filled by the governor.

#### Section 3. Resignations

A. Upon the resignation or termination of a designee, the designated member will notify the commission and the governor.

B. Appointed members of the commission may, upon submitting written notice, resign from the commission, provided this resignation is accepted by a majority of the membership of the commission. The commission may recommend a list of possible names for the governor's consideration to replace the resigning appointed member. These names would be submitted upon a majority vote of the membership.

#### Section 4. Termination of Membership

A. The missing of three consecutive meetings by a designee shall constitute grounds for the commission to recommend, by a two-thirds vote, termination of such designee to the designee.

nated member and to request a newly appointed designee.

B. Appointed members of the commission may be subject to removal from the commission for missing three consecutive meetings, for cause, by a two-thirds vote of the membership of the commission, with a letter of recommendation transmitted to the governor stating cause.

#### ARTICLE V. OFFICERS OF THE COMMISSION

Section 1. Only members of the commission may be officers of the commission.

Section 2. Election of Officers. The elected officers of the commission shall be the chairperson, vice-chairperson, and secretary. These officers shall be elected biennially at a time agreed upon by a majority of the vote of the membership with a quorum present. The newly elected officers shall assume responsibilities at such time and shall be limited to two consecutive terms of office.

Section 3. Executive Director. The executive director shall be appointed by the secretary of the Department of Social Services upon recommendation by the commission of the three top candidates after review and interview of the applicants by the commission. The executive director shall be a trained professional, having experience as such with deaf individuals, and skilled in the use of sign language. The executive director may be either a deaf person or a person with normal hearing, but preference shall be given to a deaf person. The executive director may recommend to the director of Rehabilitation Services of the Department of Social Services the appointment of such other employees as necessary to carry out the objectives of the commission. The commission executive director shall report in person to the commission at its meetings and in other ways the commission deems appropriate.

Section 4. Executive Committee. The executive committee shall be composed of the elected officers (commission chairperson, vice-chairperson, and secretary) and two commission members-at-large elected by the commission and shall meet as needed. The executive committee shall include the Louisiana Association of the Deaf and Louisiana Registry of Interpreters for the Deaf Designees as part of the membership of five. The executive director may participate in the deliberations of the executive committee as a non-voting member.

#### Section 5. Duties and Responsibilities

A. The chairperson shall:

1. set the time and place of the regular meetings of the commission;
2. call special meetings of the commission;
3. call meetings of the commission executive committee;
4. oversee the work of the executive director;
5. preside at all meetings of the commission and of the commission executive committee;
6. appoint committees of the commission and committee chairpersons;
7. call meetings to handle urgent needs, emergencies, and review budget requests at the discretion of the commission;
8. be responsible for the preparation of an agenda which must be approved at each meeting;
9. sign or authorize all letters, reports, and other communications of the commission;
10. perform such other duties as assigned by the commission.

B. The vice-chairperson shall:

1. preside at meetings of the commission or commission executive committee when the commission chairperson is absent.

2. perform other such duties as are assigned by the commission or delegated by the commission chairperson.

C. The secretary shall:

1. be responsible for keeping accurate records of all meetings;

2. keep minutes on all regular and special meetings to be made available to the public upon request;

3. perform duties as assigned by the chairperson.

D. The executive director shall:

1. implement the goals and objectives, guidelines, and policies of the commission;

2. manage and supervise the work and activities of the commission staff;

3. provide staff support to and assist in coordinating the work of commission committees and task forces;

4. arrange and provide for interpreters and necessary/special services in all commission meetings and activities;

5. arrange for public notice and publicity of commission meetings and events;

6. assume responsibility as treasurer to the commission as a full-time employee of the commission. He shall be primary manager for any commission funds and for the expenditure of funds for the purposes designated by law or by the commission;

7. submit an annual proposed budget for the commission's review and approval before submitting same to the director of Rehabilitation Services, and to the secretary of the Department of Social Services;

8. participate in the deliberations of the commission and the executive committee as a non-voting member;

9. perform other duties as assigned by the commission and/or the commission chairperson.

Section 6. Resignations. The commission officers may resign from office provided the resignation is accepted by a majority of the membership of the commission.

Section 7. Termination of Office. The commission officers may be removed from office, for cause, by a two-thirds vote of the membership of the commission. The commission may recommend to the secretary of the Department of Social Services the removal of the executive director from his/her position, for cause, by a two-thirds vote of the membership of the commission. Such office, once vacated, shall be filled as soon as possible.

## ARTICLE VI. MEETINGS OF THE COMMISSION

Section 1. Regular Meetings. The commission shall meet at least once in each quarter of the fiscal year and may meet more often as shall be deemed necessary by the chairperson, not to exceed 12 meetings per year depending on budget allocations.

Section 2. Special Meetings. Special meetings may be called by the commission chairperson or at the request of any five commission members.

Section 3. Notice.

A. Regular Meetings: A minimum of two weeks notice must be provided members of the commission for regularly scheduled meetings.

B. Special Meetings: Notice of special meetings should be provided commission members at least three days prior to the meeting. In no case shall a commission meeting be called with less than 24 hours notice.

Section 4. Quorum. No business may be conducted at commission meetings attended by fewer than eight commission members, provided such meetings are called and notice provided in accordance with the provisions specified in Section 1, 2

and 3 of Article VI above. However, recommendations made at commission meetings attended by fewer than eight commission members shall remain recommendations and are not binding until action taken by appropriate vote of the membership of the commission, as specified in these bylaws.

Section 5. Place of Meetings. The commission shall hold its regular meetings at a location most convenient and barrier-free to the membership of the commission.

Section 6. Agenda. An agenda for regular meetings shall be provided to commission members at least 24 hours in advance of regular meetings. Items may be added or deleted from the agenda at the beginning of any regular meeting by a majority vote of the commission members present.

Section 7. Special Services. Interpreters and other necessary special services must be provided at commission meetings for members or participants.

Section 8. Minutes.

A. Regular Meetings: Minutes shall be taken at each commission meeting by the secretary or his designee and copies of these minutes shall be provided at least two weeks prior to the next regular meeting to all commission members. These minutes shall be made available to the public on request.

B. Special Meetings: Minutes for special meetings shall be taken and copies of the minutes shall be distributed no later than two weeks following the meeting.

Section 9. Attendance. In case of emergency, illness, conflict, etc. a commission member may appoint another person to represent him at a meeting of the commission, provided written notice of this intent is provided to the chairperson of the commission as a letter of introduction to such a meeting. Such appointed representatives shall enjoy the privileges of membership during the meeting if specifically expressed in the letter of introduction.

## ARTICLE VII. PROCEDURES

Section 1. Privileges of membership to be exercised at commission meetings shall include making motions, debating, calling for vote on motions before the commission, voting, and such other privileges as are usual and customary.

A. Interested persons may observe meetings of the commission and may, at the invitation of the commission chairperson, address and be addressed by the commission.

B. The commission may adopt, at any meeting, such rules of procedures and order as the commission deems necessary or convenient, provided these rules do not conflict with the bylaws.

C. All meetings of the commission shall be open, except when the commission, by a majority vote of the members present, deems it necessary to go into Executive Session.

Section 2. If the commission chairperson and the commission vice-chairperson are absent from a commission meeting, the commission members present shall elect, by a majority vote, a commission member to preside at the meeting.

Section 3. Commission members shall not be held personally liable, either individually or as a body, for actions of the commission or of employees of the commission.

Section 4. Members of the commission shall receive no salary for their services, but shall be reimbursed for travel and other approved expenses incurred in the performance of their duties.

## ARTICLE VIII. COMMITTEES OF THE COMMISSION

Section 1. The commission or the executive committee may create standing and ad hoc committees to carry out the objectives of the commission or may establish task forces includ-

ing non-commission members to address issues of significance to deaf individuals in Louisiana. The duties of such task forces shall be to identify and/or research the needs of deaf persons and to make recommendations/suggestions to the commission about ways these needs can be met. The commission will reimburse committee and/or task force members for travel, per diem, and honoraria according to state regulations and commission policy.

A. Standing Committees may be comprised of commission and/or non-commission members. Composition of the committees should reflect the statewide nature of the commission. Maximum membership on any standing committee shall be nine. Term of membership shall be for two years with re-appointment permitted. Standing committees shall meet on a regular basis (a minimum of once quarterly), maintain accurate minutes of all meetings and necessary paperwork, to meet the objective(s) or charge(s) of the committee, and to report at each regular meeting of the commission.

B. Ad Hoc Committees are committees that are not standing committees and are comprised of commission and/or non-commission members. Such committees are to have a specified purpose and a specific period of existence. Maximum membership on any standing committee shall be nine. Responsibilities shall be to meet the objective(s) or charge(s) of the committee, meet on a regular basis, maintain accurate minutes of each meeting, and to report on the progress of the committee at regular meetings of the commission.

C. Task Forces may include non-commission members and shall consist of a maximum number of nine members. The duration and focus of each task force shall be specified. Responsibilities will be to meet the objective(s) or charge(s) of the task force, meet on a regular basis, perform the specified task, and report at regular meetings of the commission.

#### Section 2. State Certification Administrative Committee

A. Purpose of this committee is to administer the examination and certification of interpreters in the state of Louisiana. The operating costs of the State Certification process shall be covered by the commission.

Responsibilities of the committee shall include, but not necessarily be limited to the following:

1. development and maintenance of guidelines/standards for State Certification of Interpreters for the Deaf,
2. revision of the State Certification process,
3. identification, appointment, and training of examiners,
4. supervision of the State Certification examination,
5. determination of skill level of examinees,
6. maintenance of examination materials and records,
7. development and/or revision of examination materials,
8. issuing, on behalf of the Louisiana Commission for the Deaf, of appropriate certification to qualified examinees.

Members of this committee shall be trained examiners in the State Certification process.

B. Membership of this standing committee shall consist of a chairman, one designated member, and five appointed members. All appointed members shall meet the following criteria:

1. possess an appropriate State Certificate and/or its national equivalent of Comprehensive Skills Certificate/Reverse Skills Certificate,
2. fluency in American Sign Language,
3. active membership in the Louisiana Association of the Deaf and/or Louisiana Registry of Interpreters for the Deaf, and
4. active in the provision/utilization of interpreter services.

C. Procedure for structuring the committee membership shall be:

1. The Louisiana Commission for the Deaf shall appoint the chairman and one member of the committee. In addition, the designated member of the committee shall be the executive director of the Louisiana Commission for the Deaf. The designated member serves because of his/her position and staff responsibilities.

2. The president of the Louisiana Association of the Deaf shall appoint two members of the committee.

3. The president of the Louisiana Registry of Interpreters for the Deaf shall appoint two members of the committee.

#### D. Attendance

The missing of 50 percent or more of regularly scheduled meetings, annually, consecutively, by any appointed member of the committee without prior notification other than illness, death in the family, or other matters of serious nature may constitute grounds for termination of membership on the committee.

#### Section 3. Telephone Access Program Board

##### A. Purpose

The purpose of the Telephone Access Program Board is to function as a Standing Committee to assist the commission in the implementation and maintenance of Act 660 of the Regular Session of the 1988 Legislature.

Responsibilities of the Telephone Access Board shall include, but are not necessarily limited to the following:

1. making recommendations to the commission for the selection of staff, rate/surcharge, operating budget, and other related matters;

2. developing, selecting, and overseeing the functions of the staff;

3. approving the selection of appropriate equipment and the development, implementation, evaluation, and modification of the distribution system for telecommunication devices for deaf and deaf-blind persons;

4. approving the development, implementation, evaluation, and modification of a year-round, 24-hour dual party relay system; and,

5. engaging in other related activities not inconsistent with this legal mandate nor otherwise prohibited by law.

##### B. Membership

1. Membership of this board shall consist of the following individuals:

- a. the chairman of the Louisiana Commission for the Deaf, or designee,

- b. the president of the Louisiana Association of the Deaf, Inc., or designee,

- c. a representative of the Louisiana Deaf Community, selected by the Louisiana Association of the Deaf, Inc.,

- d. the president of the Louisiana Acadiana Deaf-Blind Citizens, Inc., or designee,

- e. the superintendent of the Louisiana School for the Deaf, or designee,

- f. the president of the Louisiana Registry of Interpreters for the Deaf, or designee,

- g. the chairman of the Public Service Commission, or designee,

- h. one public member, selected by the Public Service commission,

- i. a representative of South Central Bell, selected by South Central Bell Telephone Company,

- j. a representative of the independent phone companies, selected by the Louisiana Telephone Association,

- k. a representative of AT&T, selected by AT&T,

1. the addition of up to two more members to serve on the board may be recommended by the board to the commission for its approval.

2. The structure of the board provides for:

a. the chairman of the Louisiana Commission for the Deaf to preside as chairman of the board;

1. Should the LCD chairman find it not possible nor feasible to serve as chairman of the board, the commission shall appoint a commission member to serve as chairman.

b. election of a vice chairman to preside in the absence of the chairman and to perform such duties as are assigned by the board or delegated by the chairman;

c. election of other officer(s) of the board, such as a secretary, etc., if the board deems it necessary, with the usual duties associated with the office;

d. designees to be appointed should the individual in the specified office not be able to serve. A designee may be appointed for the normal term of office of the person designated to serve;

e. the commission staff to provide services to the board, to include but not necessarily be limited to recording, distribution, and maintenance of meeting minutes, report preparation and distribution, and meeting site arrangements;

#### C. Meetings of the Board

1. Regular Meetings - The board shall meet at least once in each quarter of the fiscal year where possible and may meet more often as shall be deemed necessary by the chairman, not to exceed 12 meetings per year depending on budget allocations.

2. Special Meetings - Special meetings may be called by the board chairperson or at the request of any four board members.

#### 3. Notice

a. Regular Meetings: A minimum of two weeks notice must be provided members of the board for regularly scheduled meetings.

b. Special Meetings: Notice and purpose of special meetings should be provided the board members at least three days prior to the meeting. In no case shall a board meeting be called with less than 24 hours notice.

4. Quorum - No business may be conducted at board meetings attended by fewer than a majority of the board members, provided such meetings are called and notice provided in accordance with Section 3C. of Article III, above. However, recommendations made at board meetings attended by fewer than a majority of the board members shall remain recommendations and are not binding until appropriate action taken by the majority vote of the board, in its next meeting, provided that a quorum is present.

5. Place of Meetings - The board shall hold its regular meetings at a location most convenient and barrier-free to the membership of the board. Meetings shall be rotated, where possible and feasible, around the state to provide for the widest public access to the deliberations of the board.

6. Agenda - An agenda for regular meetings shall be provided to commission members at least 24 hours in advance of regular meetings. Items may be added or deleted from the agenda at the beginning of any regular meeting by a majority vote of board members present.

7. Telephone/Electronic Poll Vote - A telephone/electronic poll of the members of the board may occur, should an emergency or urgent matter need to be decided or resolved. Ratification of such a poll decision will be required at the next

meeting of the board, in order to be an official action/decision of the board.

8. Special Services - Interpreters and other necessary, support, or special services must be provided for board and committee members and participants at meetings and other appropriate functions.

#### 9. Minutes:

a. Regular Meetings: Minutes shall be taken at each board meeting by commission staff, and copies of these minutes shall be provided at least two weeks prior to the next regular meeting to all board members. These minutes shall be made available to the public on request.

b. Special Meetings: Minutes for special meetings shall be taken and copies of the minutes shall be distributed no later than two weeks following the meeting.

#### D. Committees of the Board

The board may create standing or ad hoc committees to carry out the objectives of the board, or to address concerns or issues of the board and make recommendations/suggestions to the full board for consideration and action. The board shall reimburse committee members for travel, per diem, and honoraria according to state regulations, commission and/or board policy.

1. Standing Committees may be comprised of board and/or non-board members. The preferred number of committee membership shall be five. The term of appointment shall be for two years, with reappointment permitted. Standing committees shall meet on a regular basis determined appropriate by the committee, and approved by the board, maintain accurate minutes of all meetings and necessary paperwork, meet the objective(s) or charge(s) of the committee, and report at each regular meeting of the board.

2. Ad Hoc Committees are committees that are not standing committees and are comprised of board and/or non-board members. Such committees have a specified purpose and period of existence. The preferred number of committee membership shall be five. Responsibilities are to meet the objective(s) or charge(s) of the board, meet on a regular basis, maintain accurate minutes of each meeting, and to report to the board on the progress of the committee at each regular meeting of the board.

#### E. Attendance

The missing of 51 percent or more of the regularly scheduled meetings, by any individual member/designee of the board, for reason other than illness, death in the family, or other matters of serious nature may constitute grounds for a request for replacement.

#### F. Rules and Regulations for the Telephone Access Program

The board may, through a majority vote of the board and approval of the commission, adopt appropriate rules and regulations deemed necessary for the operation of the board and Telephone Access Program, as outlined in Section 3.A. of Article VIII, above.

### ARTICLE IX. AMENDMENTS

These Rules of Operation may be amended by a two-thirds vote of the membership of the commission provided written notice of the proposed changes is provided to commission members at least 10 days in advance of a regular or special commission meeting at which they are to be proposed. Amendments become effective only after submission and approval is gained through the rule making procedure established by the state.

## ARTICLE X. PARLIAMENTARY PROCEDURES

Mason's Manual of Legislative Procedures shall govern meetings of the commission and of committees and task forces of the commission, provided they are not in conflict with the Rules of Operation of the commission.

May Nelson  
Secretary

### RULE

#### **Department of the Treasury Board of Trustees of the State Employees Group Benefits Program**

Pursuant to the authority granted by R.S. 42:871(c) and R.S. 42:874 the Board of Trustees of the State Employees Group Benefits Program intends to amend its Plan Document of benefits as follows:

Insert the following language under Article 3, Section IV, and renumber the current Sections IV - IX as Sections V - X to allow for the insertion:

#### IV. CASE MANAGEMENT

A. This Section, Article 3, Section IV, Case Management is effective October 1, 1989.

B. As used herein, Case Management (CM) refers to the managed care program available to Covered Persons in cases of serious illness or injury where critical care is required and/or treatment of extended duration is anticipated. Case Management may provide, but shall not be limited to, any of the following options:

1. alternative care in special rehabilitation facilities;
2. alternative care in an extended care facility, skilled nursing facility, or the Covered Person's home;
3. avoidance of complications by earlier hospital discharge, alternative care and training of the patient and/or family;
4. alternative care in residential treatment centers and/or day care centers.

C. Case Management is performed pursuant to a contract between the board of trustees and August International Corporation (AIC).

D. Only cases identified by August International Corporation on or after the effective date of this Section shall be eligible for CM.

E. All treatment, supplies or services deemed payable by virtue of this Section shall be subject to the limitations of the fee schedule as defined in Article 3, Section II of this document.

F. Any benefits which would not be payable but for the provisions of this Section shall be considered payable only upon the recommendation of AIC, in consultation with and with the approval of the attending physician, covered person or his representative and the program. The approval of such contractual benefits by the program shall be conditioned upon the professional opinion of the program's medical director or his designee as to the appropriateness of the recommended alternative care.

G. The provisions of this Article 3, Section IV shall apply only in cases where the program is primary according to the provisions of the National Association of Insurance Commissioners (NAIC) guidelines as set forth in Article 3, Section X.

H. If a covered person has a condition which, in the opinion of AIC is likely to be of substantial duration and/or is suscep-

tible to care in a less expensive setting, AIC will make available to the attending physician and the covered person an alternative plan of care for the condition, if alternative appropriate care is a medically acceptable option. The alternative plan will be developed by health care professionals and be consistent with generally accepted medical practice. The attending physician and the covered person will review the suggested alternative care plan and adopt those portions which are mutually agreeable to the program, the attending physician and the covered person or his representative.

I. The alternative care plan may detail specific treatments, different sites of care or different levels of care. To the extent that the suggested services under the alternate care plan are not normally covered by the terms and conditions of the plan document, they may be reimbursed under the terms of this Section, provided, however, that the covered illness, accident or injury would have been eligible for payment, absent the provisions of this Section.

J. Payments made subject to the provisions of this Section shall be to the deductible, coinsurance and maximum benefit provisions as set forth elsewhere in this document.

K. Potential CM diagnoses, as identified by AIC pursuant to the PAC and/or CSR provisions of Article 3, Section III may include, but shall not be limited to the following:

1. traumatic and nontraumatic brain injury;
2. spinal cord injury;
3. cerebral vascular accident;
4. severe burns;
5. high risk infants;
6. viral diseases of the central nervous system;
7. high risk pregnancies;
8. pancreatic cancer, leukemia, other cancer requiring maintenance/adjunctive chemotherapy;
9. chronic renal failure;
10. hepatitis (complicated);
11. acquired immune deficiency syndrome (AIDS), and/or suggestive conditions;
12. multiple sclerosis, amyotrophic lateral sclerosis;
13. amputations;
14. multiple fractures.

L. Services and/or supplies not listed herein as eligible expenses may be considered covered services and/or supplies under this Section, provided that the services and/or supplies are integral to the alternative care plan and have been recommended by or to and agreed upon by AIC, the attending physician, the program and the covered person. Such services and supplies may include, but shall not be limited to:

1. home health care services including, but not limited to total parenteral nutrition, antibiotic administration, drugs and durable medical equipment not set forth in Article 3, Section I(G)(16);
2. skilled nursing or extended care facilities;
3. rehabilitation services;
4. home nursing care;
5. hospice care;
6. non-medical services and supplies used to improve the covered person's medical condition or aid in the covered person's rehabilitation.

M. Notwithstanding anything in this Article 3, Section IV to the contrary, the limitations set forth elsewhere in this document relative to eligible expenses for mental and nervous conditions and alcohol and substance abuse shall apply to case management.

The second paragraph of Article 3, Section IV (new Section V [A]) is amended as follows:

The supplemental emergency accident benefits will be payable prior to the benefits available under all other provisions of this contract, and no deductible amount shall apply to benefits payable under this Section except for the emergency room deductible as specified in the Schedule of Benefits. Benefits provided under this Section shall be subject to the limitations of the fee schedule.

The first paragraph of Article 3, Section VI (new Section VII) (A) is amended as follows:

The definitions as set forth in Article 1, Section I, are also applicable to the catastrophic illness endorsement. These catastrophic illness endorsement benefits are paid prior to benefits available under all other provisions of this contract and shall be subject to the limitations of the fee schedule.

James D. McElveen  
Executive Director

#### **RULE**

#### **Department of the Treasury Office of the Treasurer**

#### **Title 64 SECURITIES - INVESTMENTS Part V. Office of the Treasurer Subpart 1. Investments**

#### **Chapter I. Permissible Investments**

#### **§101. U.S. Government Agency Obligations**

Pursuant to R.S. 49:327(B)(1)(b), obligations of or obligations guaranteed by, any of the following agencies, instrumentalities, or government sponsored entities of the United States Government, or their successor agencies, universally referred to in the investment community as "agency securities," shall be eligible for investment by the treasurer:

- A. Government National Mortgage Association;
- B. Maritime Administration;
- C. Small Business Administration;
- D. Federal Home Loan Bank consolidated discount notes, notes, debentures and bonds;
- E. Federal Home Loan Mortgage Corporation discount notes, notes, debentures, bonds, participation certificates, guaranteed mortgage backed securities, collateralized mortgage obligations and adjustable rate mortgages;
- F. Federal National Mortgage Association discount notes, short term notes, master notes, floating rate notes, notes, debentures, subordinated debentures, bonds, guaranteed mortgage backed securities, and adjustable rate mortgages;
- G. Farm Credit System consolidated systemwide discount notes, notes and bonds;
- H. Student Loan Marketing Association discount notes, floating rate notes, notes and bonds.

The securities named above as being issued by each agency are illustrative only. Since agencies periodically issue a new form of security with the similar guarantees, any such guaranteed security issued by the above referenced agencies shall be eligible for investment by the treasurer.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:327(B)(1)(b).

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Office of the Treasurer, LR 15: (September 1989).

Mary L. Landrieu  
State Treasurer

#### **RULE**

#### **Department of the Treasury Office of the Treasurer**

#### **Title 64 SECURITIES - INVESTMENTS Part V. Office of the Treasurer Subpart 1. Investments**

#### **Chapter I. Permissible Investments**

#### **§103. Time Certificates of Deposit**

A. Non-Competitive Bid Procedure for Time Certificates of Deposit

The treasurer shall designate the amount of state funds available for time certificates of deposit to financial institutions in the State of Louisiana.

1. Frequency of Rate Setting. Each Tuesday, or in the case of a holiday, the first business day following the holiday, the state treasurer shall set interest rates to be paid on certificates of deposit. This interest rate shall remain in effect until the next Tuesday or first business day following the holiday.

2. Procedure for Time Certificates of Deposit Maturing One Year or Less. The interest rate shall be determined by the following procedure for certificates of deposit maturing one year or less:

a. The following interest rates shall be surveyed on the day the interest rate is set and averaged to determine the interest rate.

i. National Certificates of Deposit which is the average of the top rates paid by major New York money banks on primary new issues of negotiable certificates of deposits, usually on amounts of \$1,000,000 or more with similar length of maturity as quoted from the *Wall Street Journal* or a nationally recognized quotation system or the National Average of Jumbo Certificates of Deposit as compiled by Banxquote Money Markets cited in the *Wall Street Journal* or a national recognized quotation system.

ii. U.S. Treasury Obligation/Bill with similar length of maturity at the bond equivalent rate adjusted for a 360-day basis obtained from the current auction or *Wall Street Journal*.

iii. Survey of Financial Institution Rates of Interest on a weekly rotating basis shall be conducted. Two small and two large financial institutions from those eligible to receive public funds deposits shall be polled as to the interest rate offered on published jumbo certificates of deposits of \$100,000. The highest rate from each of the small and large financial institutions polled shall then be averaged, 15 basis points shall be deducted from the averaged figure and the result shall be the interest rate for this category. To establish the ranking of a financial institution as small or large, annually in April, the treasurer shall compile a list of financial institutions by total assets based on the latest annual financial statements available, as ranked by Sheshunoff

Bank Rankings, the Louisiana Banker's Association, or other listing. The financial institutions shall be ranked by size as follows:

- (a). Small: \$0-\$100 million in total assets
- (b). Large: Greater than \$100 million in total assets.

b. Minimum Interest Rate. For maturities of one year or less, the minimum interest rate shall be the discount rate on U.S. Treasury bills with a similar length of maturity.

c. Determination of Rate. The interest rate shall be an equally weighted average of those interest rates obtained in §103.A.2.a.i., ii and iii. This interest rate shall be compared to the minimum interest rate in §103.A.2.b. Whichever rate is higher shall be the rate of interest on the time certificates of deposit.

d. Calculation and Interest Payment. All certificates of deposit maturing in one year or less shall be calculated on a 360-day basis with interest paid at maturity. The treasurer reserves the right to collect interest on a more frequent basis in cases of unusual circumstances, such as a financial emergency of the state or if a financial institution's financial position is deteriorating and collection of interest on a more frequent basis is deemed appropriate by the treasurer to protect state funds.

3. Procedure for Time Certificates of Deposit Maturing Greater than One Year. The interest rate shall be determined by the following procedure for certificates of deposit maturing greater than one year.

a. The following interest rates shall be surveyed on the day the interest rate is set and averaged to determine the interest rate.

i. U.S. Treasury Obligation with similar length of length calculated on yield to maturity obtained from the current auction or *Wall Street Journal*.

ii. Agencies. Any one of the agencies listed in §101 with similar length of maturity calculated on yield to maturity obtained from the *Wall Street Journal*.

iii. Survey of Financial Institution Rates of Interest on a weekly rotating basis shall be conducted. Two small and two large financial institutions from those eligible to receive public funds deposits shall be polled as to the interest rate offered of jumbo certificates of deposits of \$100,000. The highest rate from each of the small and large financial institutions polled shall then be averaged, 15 basis points shall be deducted from the averaged figure and the result shall be the interest rate for this category. To establish the ranking of a financial institution as small or large, annually in April, the treasurer shall compile a list of financial institutions by total assets based on the latest annual financial statements available, as ranked by Sheshunoff Bank Rankings, the Louisiana Banker's Association, or other listing. The financial institutions shall be ranked by size as follows:

- (a). Small: \$0-\$100 million in total assets
- (b). Large: Greater than \$100 million in total assets.

b. Minimum Interest Rate. For maturities of greater than one year, the minimum interest rate shall be the yield to maturity on U.S. Treasuries with similar length maturities.

c. Determination of Rate. The interest rate shall be an equally weighted average of those interest rates obtained in §103.A.3.a.i., ii and iii. This interest rate shall be compared to the minimum interest rate in §103.A.3.b. Whichever rate is the higher shall be the rate of interest on the time certificates of deposit.

d. Calculation and Interest Payment. All certificates of deposit maturing in greater than one year shall be calculated on a 360-day basis with interest paid semi-annually from date of inception. The treasurer reserves the right to collect interest on a

more frequent basis in cases of unusual circumstances, such as a financial emergency of the state or if a financial institution's financial position is deteriorating and collection of interest on a more frequent basis is deemed appropriate by the treasurer to protect state funds.

#### B. Competitive Bid Time Certificates of Deposit

Pursuant to R.S. 49:327B(1)(d), 20 percent of the amount designated by the treasurer to be available for certificates of deposit to financial institutions in the state of Louisiana **may** be competitively bid.

1. Frequency of Bid. On the third Tuesday of each month, or in the case of a holiday the first business day following the third Tuesday of each month, the state treasurer may offer the amount of funds determined to be available for competitive bid to be invested effective on the second business day following the acceptance of the bids. Should additional funds become available for competitive bid, the treasurer reserves the right to offer such funds for bid on any business day.

2. Eligibility to Bid. A financial institution shall become eligible to bid on the designated amount of state funds by annually completing a questionnaire by which the financial institution shall certify the following:

a. Each financial institution shall state the amount of state funds it will be able to accept for bid. Refer to §103.C for the total maximum amount of certificates of deposit which shall be allowed to be maintained by each financial institution.

b. Meets Federal Deposit Insurance Corporation (FDIC), Savings Association Insurance Fund (SAIF), Federal Savings and Loan Insurance Corporation (FSLIC) Resolution Fund and National Credit Union Association (NCUA) capital adequacy requirements.

c. Solvent under generally accepted accounting principles and/or regulatory accounting requirements.

d. The financial institution is profitable in one of the last three years as indicated in the audited financial statements or fiscal year end financial statements certified by the Board of Directors of the financial institution.

Should the overall financial condition of the financial institution substantially decline from the previous period, the treasurer shall remove this financial institution from the list of eligible bid institutions until the institution's financial condition has returned to the minimum criteria stated above.

3. Required Financial Information. The financial institutions participating in the bid process for certificates of deposit shall provide the treasurer's office with publicly disclosable quarterly call reports when filed with the appropriate regulatory authority. The complete quarterly call report shall be sent to the treasurer in 90 days from the end of the quarter. Annual audited financial statements or financial statements certified by the board of directors, if annual audited statements are not available shall be provided to the treasurer upon completion.

4. Minimum Interest Rate. For maturities of one year or less, the minimum interest rate shall be the discount rate on U.S. Treasury bills with a similar length of maturity. For maturities of greater than one year, the minimum interest rate shall be the yield to maturity on U.S. treasuries with similar length maturities as provided for in §103.A.2.b and §103.A.3.b.

5. Determination of Rate. The treasurer shall determine the amount of funds available for competitive bid. Bids will be opened for the available amount of funds from 9 a.m. to 12 p.m. on the third Tuesday of each month, or in the case of a holiday, the first business day following the third Tuesday of each month. Those financial institutions eligible under §103.B.2 and



HISTORICAL NOTE: Promulgated by the Department of the Treasury, Office of the Treasurer, LR 15: (September 1989).

Mary L. Landrieu  
State Treasurer

who are interested in bidding for available state funds may call the state treasurer's office from 9 a.m. to 12 p.m. on the day designated and bid on the state funds indicating a dollar amount and interest rate. The highest interest rate bid shall be accepted provided that the interest rate is the same as or above the minimum rate in §103.B.4 and deemed acceptable to the treasurer. The treasurer reserves the right to reject all bids. The winners of the bid(s) will be notified by phone between 1 p.m. and 4:30 p.m. on the same day. The financial institutions winning the bid shall confirm in writing the amount and interest rate the financial institution bid by telephone. The certificates of deposit shall be effective on the second business day after acceptance of the bid(s). Upon receipt of acceptable collateral on the effective date, the treasurer shall wire the appropriate amount of funds to the financial institution. Interest shall begin to accrue on the second business day after the acceptance of the bid(s).

6. Collateral for Competitive Bid Time Certificates of Deposit. Collateral for competitive bid time certificates of deposit shall be in a form acceptable to the treasurer as indicated on the most recent list of acceptable collateral prepared by the state treasurer's office. Such a list is available upon request. Should the treasurer deem it necessary to limit the acceptable collateral, each bidder shall be notified of such change prior to the bid.

7. Calculation and Interest Payment. All certificates of deposit maturing in one year or less shall be calculated on a 360-day basis with interest paid at maturity. All certificates of deposit maturing greater than one year shall be calculated on a 360-day basis with interest paid semi-annually from date of inception. The treasurer reserves the right to collect interest on a more frequent basis in cases of unusual circumstances, such as a financial emergency of the state or if a financial institution's financial position is deteriorating and collection of interest on a more frequent basis is deemed appropriate by the treasurer to protect state funds.

C. Total Amount of Certificates of Deposit with each Financial Institution

The maximum total amount of certificates of deposit with each eligible financial institution of bid and non-bid certificates shall not exceed at any one time, the total capital, surplus and undivided profits, exclusive of loan loss reserves. Should the financial institution have losses indicated, the loss shall be deducted from the total capital and surplus to determine the total amount of certificates of deposit at any one time. The total amount of certificates of deposit shall be determined based on the latest annual financial statements available which have been certified by the secretary of the board. This determination shall be set annually in April. The treasurer reserves the right to maintain less than the maximum amount of deposits with the financial institution should the treasurer deem it in the best interest of the state. §103.C shall be phased in over a one-year period commencing October 1, 1989.

D. Collateral Securing Certificates of Deposit

1. Each financial institution shall submit a signed collateral agreement as issued by the treasurer in order to be eligible for both bid and non-bid certificates of deposit.

2. All collateral securing certificates of deposit shall be in a form acceptable to the treasurer and meet the collateral requirements under R.S. 49:321.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:327B(1)(b).

# Notices of Intent

## NOTICE OF INTENT

### Board of Elementary and Secondary Education

#### Revisions to 8(g) Policy and Procedure Manual

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education approved the addition of Section 180 - Ownership/Production Rights to the 8(g) Policy and Procedure Manual as stated below:

#### Add Section 180. Ownership/Production Rights

A. Upon termination at the completion of 8(g) funding for a project/program, the State Board of Elementary and Secondary Education may approve an agency's request to retain equipment purchased with 8(g) funds based on the agency's assurance that the equipment will be used for educational enhancement.

B. All educational products developed using 8(g) funds awarded by the State Board of Elementary and Secondary Education are the property of the board and cannot be distributed for profit without explicit approval from the board.

Interested persons may comment on the proposed policy change and/or additions in writing, until 4:30 p.m., November 8, 1989 at the following address: State Board of Elementary and Secondary Education, Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Em Tampke  
Executive Director

### **Fiscal and Economic Impact Statement For Administrative Rules Rule Title: Amendment to the 8(g) Policy and Procedure Manual**

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

There are no implementation costs or savings to state or local governmental units associated with this rule.

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

There are no effects on revenue collections of state or local governmental units associated with this rule.

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

There are no costs or economic benefits to directly affected persons or non-governmental units with this rule.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There are no effects on competition and employment associated with this rule.

Em Tampke  
Executive Director

John R. Rombach  
Legislative Fiscal Officer

**NOTICE OF INTENT**

**Board of Elementary and Secondary Education**

Extend Board Policy 3.01.70.v(37)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education extended BESE policy 3.01.70.v(37) for hiring full-time/part-time noncertified school personnel with the exception of speech, language, and hearing specialists until July 1, 1991.

Interested persons may comment on the proposed policy change and/or additions in writing, until 4:30 p.m., November 8, 1989 at the following address: State Board of Elementary and Secondary Education, Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Em Tampke  
Executive Director

**Fiscal and Economic Impact Statement  
For Administrative Rules**

**Rule Title: Circular 665 (Policy for Hiring Full-Time and Part-Time Noncertified School Personnel)**

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

The adoption of this policy will cost the Department of Education approximately \$50 (printing and postage) to disseminate the policy.

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

This policy will have no effect on revenue collections.

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

This policy will allow school superintendents to fill vacant teaching positions and not necessitate combining classes.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

Since many local school systems are experiencing difficulty in filling vacancies in their schools, this policy will have no effect on employment and competition among certified teachers across the state. In addition, the employing superintendent must verify that no certified teacher is available to fill the vacant position.

Graig A. Luscombe  
Deputy Superintendent

John R. Rombach  
Legislative Fiscal Officer

**NOTICE OF INTENT**

**Board of Elementary and Secondary Education**

Certification Requirements for School Superintendent for Out-of-State Applicants

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education approved as an amendment to page 68 of Bulletin 746, *Louisiana Standards for State Certification of School Personnel*, the following certification requirements for school superintendents for out-of-state applicants:

A statement of eligibility for certification as a parish or city school superintendent may be issued upon documentation and verification that the applicant meets the following criteria:

1. hold an out-of-state teaching certificate with authorization to serve as a school superintendent;
2. hold an earned master's degree from a regionally accredited institution of higher learning;
3. have had five years of successful school experience as a superintendent, assistant superintendent, supervisor of instruction, or principal;
4. have had five years of successful teaching experience in a properly certified field.

A parish or city school superintendent ancillary certificate may be issued to an applicant who has met the requirements of 1-4 above and who is employed to serve in this position in a Louisiana school system. The certificate is valid only for the period and place of employment.

Interested persons may comment on the proposed policy change and/or additions in writing, until 4:30 p.m., November 8, 1989 at the following address: State Board of Elementary and Secondary Education, Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Em Tampke  
Executive Director

**Fiscal and Economic Impact Statement  
For Administrative Rules  
Rule Title: Certification Requirements for School Superintendent for Out-of-State Applicants**

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

The adoption of this policy will cost the Department of Education approximately \$50 (printing and postage) to disseminate the policy.

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

This policy will have no effect on revenue collections.

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

This policy will facilitate local school boards in their search for qualified individuals to serve as school superintendents. In addition to persons who qualify from Louisiana, they will be able to recruit experienced administrators from other states.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There would be an effect on competition in that qualified

administrators from other states could become eligible to serve as school superintendents in Louisiana.

Graig A. Luscombe  
Deputy Superintendent

John R. Rombach  
Legislative Fiscal Officer

**NOTICE OF INTENT**

**Board of Elementary and Secondary Education**

Revised Requirements for Special Education  
Certification Classifications

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education approved the following revised requirements for special education certification classifications as proposed by the department. (Also adopted as an emergency rule. See August issue of *Louisiana Register*.) Effective August 20, 1989.

**MILD/MODERATE (1-12)**

A. A valid Louisiana teaching certificate  
B. A minimum of 18 semester hours from the specialized academic education requirements for mild/moderate certification listed below:

- 1. General Knowledge . . . . . 3 semester hours
  - a. Introduction to Education of Exceptional Children . . . . . 3 semester hours
  - b. Introduction to Mild/Moderate . . . . . 3 semester hours
- 2. Methods and Materials 6 semester hours including a. (Methods of teaching students with learning and behavior problems)

- a. Methods of Teaching Students with Learning and Behavior Problems (must include training in prevocational/vocational skills) . . . . . 3 semester hours
- b. Methods of Designing and Assessing Materials for Mild/Moderate . . . . . 3 semester hours
- c. Methods of Teaching Basic Subjects to Mild/Moderate . . . . . 3 semester hours
- 3. Management . . . . . 6 semester hours
  - a. Behavioral Approach to Managing the Mild/Moderate . . . . . 3 semester hours
  - b. Humanistic Approaches to Managing the Mild/Moderate . . . . . 3 semester hours
  - c. Behavior Management . . . . . 3 semester hours
  - d. Methods of Classroom Organization and Management . . . . . 3 semester hours
- 4. Assessment and Evaluation . . . . . 3 semester hours
  - a. Practicum in Tests and Measurements (emphasizing informal testing) . . . . . 3 semester hours
- C. A practicum in mild/moderate . . . 3 semester hours

OR

A one-year internship for college credit in mild/moderate with supervision provided by faculty in the college of education.

OR

Three years of successful teaching experience in mild/moderate

NOTE: The secondary teacher of mild/moderate students who is to award Carnegie Units must be certified in the subject area(s) in which Carnegie Units are awarded.

**SEVERE/PROFOUND (1-12)**

A. A valid Louisiana teaching certificate  
B. A minimum of 21 semester hours from the specialized academic education requirements for severe/profound certification listed below:

- 1. General Knowledge . . . . . 3 semester hours
  - a. Introduction to Education of Exceptional Children . . . . . 3 semester hours
  - b. Introduction to Education of the Severe/Profound . . . . . 3 semester hours
- 2. Methods and Materials . . . . . 9 semester hours
  - a. Curriculum for Severe/Profound . . 3 semester hours
  - b. Instructional Strategies for Severe/Profound (must include training in prevocational/vocational skills) . . . . . 3 semester hours
  - c. Methods of working with Paraprofessionals and Medical and Related Service Personnel/Health and Safety Procedures/Parental Involvement . . . . . 3 semester hours
- 3. Management . . . . . 3 semester hours
  - a. Learning and Classroom Behavior Principles of Severe/Profound, including 30 contact hours of field experiences . . . . . 3 semester hours
  - b. Behavior Management . . . . . 3 semester hours
- 4. Assessment and Evaluation . . . . . 3 semester hours
  - a. Practicum in Tests and Measurements (emphasizing informal testing) . . . . . 3 semester hours
- 5. Communication Strategies Appropriate for the Severe/Profound . . . . . 3 semester hours
- C. A practicum in severe/profound . . 3 semester hours

OR

A one-year internship or college credit in severe/profound with supervision provided by faculty in the college of education

OR

Three years of successful teaching experience in severe/profound.

**HEARING IMPAIRED**

A. A valid Louisiana teaching certificate  
B. A minimum of 24 semester hours from the specialized academic education requirement for hearing impaired certification listed below:

- 1. General Knowledge . . . . . 6 semester hours
  - a. Introduction to Education of Exceptional Children . . . . . 3 semester hours
  - b. Foundations of Education of the Hearing Impaired . . . . . 3 semester hours
- 2. Language/Communication Development . . . . . 15 semester hours
  - a. Language Development for Hearing Impaired (including linguistic principles in language acquisition of normal hearing children and hearing impaired children) . . . . . 3 semester hours
  - b. Speech Development for Hearing Impaired (must include speech reading) . . . . . 3 semester hours
  - c. Introduction to Audiology and Auditory Training . . . . . 3 semester hours
  - \*d. Sign Communication I . . . . . 3 semester hours
  - \*\*e. Sign Communication II . . . . . 3 semester hours
- 3. Curriculum and Instruction . . . . . 3 semester hours
  - a. Instructional Strategies/Curriculum Adaptations for Hearing Impaired (must include training in prevocational/vocational skills) . . . . . 3 semester hours
- C. A practicum in hearing impaired . . 3 semester hours

OR

A one-year internship for college credit in hearing impaired with supervision provided by faculty in the college of education

OR

Three years of successful teaching experience with the hearing impaired at the level of certification (elementary or secondary)

\*The individual achieving a rating of Survival on the Sign Language Proficiency Interview/Sign Communication Proficiency Interview may substitute that rating for Sign Communication I.

\*\*The individual achieving a rating of Intermediate Plus on the SLPI/SCPI may substitute the rating for Sign Communication I and Sign Communication II.

NOTE: Certification is awarded at the level of the regular teaching certificate held by the applicant.

**VISUALLY IMPAIRED**

A. A valid Louisiana teaching certificate

B. A minimum of 21 semester hours from the specialized academic education requirement for visually impaired certification listed below:

1. General Knowledge . . . . . 6 semester hours  
a. Introduction to Education of Exceptional

Children . . . . . 3 semester hours  
b. Introduction to Education of Visually

Impaired . . . . . 3 semester hours  
2. Methods and Materials . . . . . 3 semester hours

a. Instructional Strategies for Visually Impaired (must include training in prevocational/vocational skills) . . . . . 3 semester hours

3. Visual Impairments . . . . . 9 semester hours  
a. Low Vision and Its Educational

Implications . . . . . 3 semester hours  
\*b. Braille . . . . . 3 semester hours

c. Orientation and Mobility for Visually Impaired Students . . . . . 3 semester hours

4. Assessment and Evaluation Introduction to Educational Screening, Assessment and Evaluation, or Tests and Measurements . . . . . 3 semester hours

C. A practicum in visually impaired . . 3 semester hours

OR

A one-year internship for college credit in visually impaired with supervision provided by faculty in the college of education

OR

Three years of successful teaching experience with the visually impaired at the level of certification (elementary, secondary, preschool).

\*Library of Congress Literary Braille certification will fulfill this requirement.

NOTE: Certification is awarded at the level of the regular teaching certificate held by the applicant.

The secondary teacher of the visually impaired who is to award Carnegie Units must be certified in the subject area(s) in which Carnegie Units are awarded.

**ACADEMICALLY GIFTED EDUCATION**

A. A valid Louisiana teaching certificate

B. A master's degree from a regionally accredited institution of higher education

C. A minimum of 21 semester hours of credit as follows:  
1. Nine semester hours of graduate credit in the teaching area in which the teacher is certified to teach. Advanced methods courses in the subject areas will also be accepted for elementary certified teachers

2. Twelve semester hours of credit involving the following course content areas including (a) and (b) below:

- a. Characteristics/Study of Gifted Individuals
- b. Methods of Teaching the Gifted
- c. Curriculum Development for the Gifted
- d. Interpretation of Assessment Data on the Gifted
- e. Techniques of Counseling the Gifted
- f. Research
- g. Creative Thinking and Problem Solving
- h. Introduction to Education of Exceptional Children

D. Three semester hours in a practicum involving academically gifted students

OR

A one-year internship for college credit in academically gifted with supervision provided by faculty in the college of education

OR

Three years of successful teaching experience in academically gifted.

NOTE: Academically gifted certification will be valid only in the teaching area(s) in which one is certified. The secondary teacher of academically gifted students who is to award Carnegie Units in the secondary subject area(s) must be certified in the subject area(s) in which Carnegie Units are awarded.

EXCEPTION: Elementary and secondary teachers who are also certified in academically gifted may offer approved special education elective (enrichment) courses at either the elementary or secondary level.

**Child Search Coordinator Certification**

Child Search Coordinators must be certified or licensed as a teacher, social worker, guidance counselor, school psychologist, psychologist, speech therapist, or other related special education field and:

- 1. Must possess a master's degree;
- 2. Must have at least six hours in special education; and
- 3. Must have three years of experience in the certified or licensed area.

Persons who were functioning as Child Search Coordinators prior to September 1, 1989 and are certified/licensed special education personnel are not bound by these requirements, and will be certified, provided they are recommended for continuation employment by the parish supervisor/director of special education and approved by the superintendent of the LEA.

Interested persons may comment on the proposed policy change and/or additions in writing, until 4:30 p.m., November 8, 1989 at the following address: State Board of Elementary and Secondary Education, Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Em Tampke  
Executive Director

**Fiscal and Economic Impact Statement  
For Administrative Rules**

**Rule Title: Revised requirements for special education certification**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)  
The adoption of this policy will cost the Department of Education approximately \$50 (printing and postage) to disseminate the policy.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)  
This policy will have no effect on revenue collections.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)  
Louisiana certified teachers seeking additional certification in special education will be able to achieve the certification in a more realistic time frame.  
The revision will also increase the number of certified special education teachers available for employment in the public/private schools of Louisiana.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)  
Louisiana is currently experiencing a teacher shortage. During the 1988-89 school year, approximately 600 noncertified special education teachers were hired to fill vacancies. The revised requirements will facilitate the certification of special education teachers; however, it is not anticipated that these revisions will eliminate the shortage.

Graig A. Luscombe  
Deputy Superintendent

John R. Rombach  
Legislative Fiscal Officer

Em Tampke  
Executive Director

ADDITIONAL CERTIFICATION ENDORSEMENTS/TRANSACTIONS \$25

- Additional endorsement to certificate
- Higher certificate
- Name change
- Adding degree
- Extension
- Written evaluations (limit two)

APPEAL EVALUATION \$25

DUPLICATE CERTIFICATE \$15

COPIES OF MATERIAL IN FOLDER \$ 5

- Letters - per letter
- Transcripts - each university
- NTE scores

BULLETIN 746, *Louisiana Standards for State Certification of School Personnel*

Part A- Teachers, administrators and ancillary personnel \$12

Part B- Vocational-technical personnel \$ 6

Certified check or money order should be made payable to the Louisiana Department of Education.

Fee is valid for one year pending completion of transaction or request

EFFECTIVE DATE: SEPTEMBER 1, 1989

Interested persons may comment on the proposed policy change and/or additions in writing, until 4:30 p.m., November 8, 1989 at the following address: State Board of Elementary and Secondary Education, Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

**NOTICE OF INTENT**

**Board of Elementary and Secondary Education**

Revised Teacher Certification Fee Schedule

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education approved the following revised certification fee schedule. This was also adopted as an emergency rule - see August, 1989 issue of *Louisiana Register*.

**Certification Fee Schedule**

All Certification Fees are Nonrefundable

**INITIAL CERTIFICATION APPLICATION FEE**

Teaching Certificates	\$55
Type C certificate	
Temporary certificate (initial certificate only)	
Emergency permit	
Temporary employment permit	
Ancillary Certificate	\$50
VTIE	\$50

**Fiscal and Economic Impact Statement  
For Administrative Rules  
Rule Title: Certification Fee Schedule**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)  
Since fees are currently being collected by the Department of Education, this proposed fee increase should not require additional funds to implement other than approximately \$50 (printing and postage) to disseminate the revised fee schedule statewide.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)  
It is estimated that as a result of this proposed action an additional \$88,601 will be available to the Department of Education (Bureau of Teacher Certification) as self-generated funds and an additional \$3,691 will be forwarded to the state general fund.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)  
This proposed action would increase the certification fees required of Louisiana school personnel for Louisiana certification. An increase from \$10 to \$30 depending on the type of transaction required is proposed.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

No effect on competition and employment is anticipated as a result of this proposed action.

Graig A. Luscombe  
Deputy Superintendent

John R. Rombach  
Legislative Fiscal Officer

**NOTICE OF INTENT**

**Board of Elementary and Secondary Education**

Extension of Temporary Employment Permit

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education extended the Temporary Employment Permit for individuals seeking Louisiana teacher certification until July 1, 1991.

Interested persons may comment on the proposed policy change and/or additions in writing, until 4:30 p.m., November 8, 1989 at the following address: State Board of Elementary and Secondary Education, Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Em Tampke  
Executive Director

**Fiscal and Economic Impact Statement  
For Administrative Rules**

**Rule Title: Temporary Employment Permit**

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

The adoption of this policy will cost the Department of Education approximately \$50 (printing and postage) to disseminate the temporary employment permit policy.

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

The adoption of this policy should result in approximately \$3,375 being collected.

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

Individuals applying for temporary employment permits will be required to submit an initial fee of \$55 and a renewal fee of \$25.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

Since many local school systems are experiencing difficulty in filling vacancies in their schools, this should have no effect on competition among certified teachers across the state. In addition, the employing superintendent must verify that no certified teacher is available to fill the vacant position.

Graig A. Luscombe  
Deputy Superintendent

John R. Rombach  
Legislative Fiscal Officer

**NOTICE OF INTENT**

**Department of Health and Hospitals  
Board of Chiropractic Examiners**

Pursuant to R.S. 49:950, et seq., the Louisiana State Board of Chiropractic Examiners intends to adopt, amend, and repeal rules relative to advertising practices, patient billing, and the general practice of chiropractic. Inquiries may be made to Dr. J. Michael Flynn, D.C., at 5800 One Perkins Place, Suite 5-C, Baton Rouge, Louisiana, 70808.

**Title 46**

**PROFESSIONAL AND OCCUPATIONAL STANDARDS**

**Part XXVII. Chiropractors**

**Chapter 3. Professional Conduct**

**§306. Itemized Patient Billing**

A. Whenever a chiropractic physician licensed under this Chapter renders professional services to a patient, and receives any assignment of benefits for payment by a third party, the chiropractic physician shall submit to the patient, an itemized statement of the specific services rendered and the charge for each, no later than the chiropractic physician's next regular billing cycle which follows the fifth day after the rendering of professional services but in no event, more than 30 days after the services are rendered.

B. Whenever a chiropractic physician licensed under this Chapter renders professional services to a patient, the chiropractic physician shall provide to the patient a written, itemized statement of the specific services rendered on that day and the charge for each service rendered on that day and each day thereafter that services are provided to the patient.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2803.E.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Chiropractic Examiners, LR 15:

**§307. Advertising practices**

A. Advertising should not compare one chiropractor to another, one technique with another technique, nor one profession with another profession.

B. If a chiropractor advertises that a certain number of patients' symptoms are alleviated by chiropractic care, the source of the statistics must be provided in that advertisement.

C. Although testimonials may be used, the name of the doctor or the name of the clinic at which he practices shall not be used in the testimonial. However, the name of the doctor may appear or be used with the testimonial reflecting that the doctor paid for the advertisement.

D. Advertisement is prohibited which offers gratuitous goods or services or discounts in connection with chiropractic services unless the chiropractor provides a disclosure statement to be signed by the patient which explains:

1. specifically what services or goods are free, discounted, or gratuitous;

2. what services are not included in the free, discounted or gratuitous services; and

3. when free services or goods have been provided, any additional services are subject to a charge and such charges are to be disclosed to the patient, guardian, or guarantor, in writing, prior to the rendering of such services; provided, that this rule shall not be construed to relate to the negotiation of fees between chiropractors and patients or to prohibit the rendering of chiropractic services for which no fee is charged;

4. after all services are rendered to the patient on that

day, the chiropractor shall provide the patient with a written itemized statement, disclosing all charges, regardless of any assignment of insurance benefits or possibility of third party payment.

E. Any advertisement that mentions automobile liability insurance shall state that "policy limitations apply" to the medical payment provisions therein, and must be in bold print. Television advertisements must verbally state that policy limitations apply.

F. A chiropractor shall not advertise "free x-rays" unless the advertisement states the

1. x-rays shall be taken only if found to be necessary and
2. more than one x-ray is required for diagnostic purposes.

G. When any advertisement offers free, discounted, or gratuitous services or goods, that said advertisement must include the usual charge for those services, and the type of service or examination which is free. In the case of television and print medium, the usual charges must be in bold print. In the case of radio advertising, such ads must clearly state verbally the typical charge for those services.

H. If any part of these rules; or rule herein is declared unlawful and/or unconstitutional, said declaration shall not affect the validity of any other part or rule herein.

I. Repeal

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2816 (C).

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Chiropractic Examiners, LR 2:51 (February 1976), amended LR 5:174 (July 1979), LR 13:343 (June 1987), amended by the Department of Health and Hospitals, Board of Chiropractic Examiners, LR 15: **§308. Disclosures in Advertising**

A. Any chiropractor who engages in any of the practices specified in this Subsection shall include the disclosure statement in this Subsection in any advertising of such practice. The practices are as follows:

1. The practice of waiving all or part of a required deductible or co-payment amount under any policy of health insurance or other health benefit plan, to include the practice of offering any gift or gratuity, such as a health check which has the effect of reducing or eliminating a deductible and is so advertised.
2. Performing any services without charge to the recipient, the effect of which eliminates or reduces the amount of the required deductible or co-payment under any policy of health insurance of other health benefit plan.

a. The disclosure statement required by this Subsection in such advertising shall be as follows: "Limited eligibility - only persons having a qualified health insurance or other health benefit plan shall be eligible for participation in any program that reduces or eliminates payment of the required deductible or co-payment amounts. In order to qualify, the health insurance or health benefit plan must have a deductible which does not exceed \$ \_\_\_\_\_ (insert dollar amount) and the co-payment must not exceed \_\_\_\_ percent (insert percentage amount)."

B. In addition, any chiropractor that reserves any right to seek any portion of the amount due for services rendered from the recipient of those services shall also include the following disclosure in all such advertising.

"Personal liability - In the event that your insurance or health benefits plan fails to pay all or part of any portion of the nonwaived charges for any services rendered, then you can be held personally liable for such amount."

C. "Advertising" or "advertisement" as used in this Sec-

tion shall include any communication to the public including communication by means of newspaper, magazines, circulars, direct mail, directories, radio, television, and billboards. The disclosures required to be given by this Section shall be made clearly, conspicuously, and in meaningful sequence. In the case of written advertisement, the terms "limited eligibility" and "personal liability" shall be in all capital letters and shall be printed more conspicuously than other terminology required by this Section and shall in no event be printed in less than the equivalent of 10-point type, 0.075 inch computer type or elite size. In the case of television advertising, the required disclosure shall be made by both audio and visual transmission. All such disclosures shall be made in the English language.

D. Any violation of this Section shall constitute grounds for disciplinary action or penalty by the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:16 (C).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Chiropractic Examiners, LR 15: **§311. Overutilization of Services**

Overutilization of services is prohibited. Overutilization is the providing of treatment or diagnostic services the need for which cannot be substantiated by the clinical record of the patient, or reports, or any other pertinent facts or evidence. Such practice shall constitute a form of misrepresentation, deceit, unprofessional conduct, or gross misconduct.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2816 (A) (5), (6) and (7).

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Chiropractic Examiners, LR 13:344 (June 1987), amended by the Department of Health and Hospitals, Board of Chiropractic Examiners, LR 15:

#### PROPOSED RULES

for

The Louisiana Chiropractic Peer Review Committee functioning under the Louisiana Board of Chiropractic Examiners

1. Area covered: State of Louisiana
2. Structure: The Louisiana Peer Review Committee shall function under the Louisiana Board of Chiropractic Examiners, a state agency created and empowered by the legislature to license and regulate the practice of Chiropractic in Louisiana in accordance with LSA Title 37, 2801 et seq., LSA R.S. 27:1734 and LSA-R.S. 49:950 et seq.
3. Purpose: The purpose of the committee is to review upon request and agreement of all parties involved any matter relative to the appropriateness of care rendered by any doctor of Chiropractic licensed to practice and practicing in the State of Louisiana.
4. Composition of Committee: The committee shall be comprised of five doctors of chiropractic currently licensed by the State of Louisiana and practicing within the State of Louisiana, and appointed by the Louisiana Board of Examiners.

All chiropractors chosen to serve on the committee shall attend a peer review school. In that the Board of Examiners will be administering and functioning as an appeals option, its members shall also attend the peer review school. The Board of Examiners shall bear the cost of this special training.

5. Per diem/expenses: Committee will be afforded a per diem payment and reimbursement for reasonable expenses incurred as a result of attending review meetings. Per diem shall not exceed \$50 per day plus mileage at the current state rate, all as required by and set forth in LSA-R.S. 37:2802(F). Members will be reimbursed only from review fees collected.

6. Who may submit claims: Chiropractic physicians, third party reimbursement organizations, patients, professional standards review organizations, health maintenance organizations may request a review if they are directly involved in the claim by the fact of being the patient treated, the doctor administering or receiving payment for treatment or the third party contracting to pay the claim.

7. All costs of administrating this program will be borne by the peer review committee out of the fees charged.

Any party making a peer review request will be charged a fee to cover the administrative costs of performing the review. The fee will be commensurate with the administrative costs.

#### **Procedure for Review**

1. All reviews will be blind reviews. The identity of the patient and treating physician will be unknown to the committee.

2. All parties involved must agree to the review process and may agree to binding arbitration either on initial review or on appeal.

Interested persons may present their views at a public hearing on October 3, 1989 at 10 a.m., at 5800 One Perkins Place, Suite 5-C, Baton Rouge, LA 70801.

Dr. Michael Flynn, D.C.  
President

#### **Fiscal and Economic Impact Statement For Administrative Rules**

##### **Rule Title: Chiropractic Standards and Peer Review Committee**

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

It is estimated that the Peer Review Committee will incur approximately \$6,000 of costs per year to be borne by the Board of Examiners if not defrayed in Peer Review fees.

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

It is estimated that the assessment of fees will be commensurate with costs of the Peer Review Committee of \$6,000.

#### **III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON- GOVERNMENTAL GROUPS (Summary)**

The costs and/or economic benefits cannot be determined at this time.

#### **IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOY- MENT (Summary)**

There is no estimated effect on competition and employment.

James M. Ross  
Asst. Atty. Gen. for Bd.  
of Chiropractic Examiners

David W. Hood  
Senior Fiscal Analyst

#### **NOTICE OF INTENT**

##### **Department of Health and Hospitals Board of Nursing**

The Louisiana State Board of Nursing hereby gives notice that the board, at its November 16-17, 1989 meeting, intends to adopt amendments to the administrative rules:

#### **Title 46**

#### **PROFESSIONAL AND OCCUPATIONAL STANDARDS**

#### **Part XLVII. Nurses**

#### **Subpart 2. Registered Nurses**

#### **Chapter 35. Nursing Educational Programs**

#### **§3529. Selection and Use of Clinical Facilities**

A. ...

B. Board approval shall be secured prior to the time an agency is utilized for student clinical experience.

C. - F. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:918.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Nursing, LR 3:188 (April 1977), amended LR 10:1026 (December 1984), amended by the Department of Health and Hospitals, Board of Nursing, LR 15:

Public notification made herein indicates no final approval.

The public is made aware of the proposed amendments in compliance with R.S. 49:950 et seq.

Written comments may be addressed to Betty N. Adams, M.N., R.N., Associate Director/Nursing Consultant For Education, Louisiana State Board of Nursing, 907 Pere Marquette Building, 150 Baronne Street, New Orleans, LA 70112-2382 until 4:30 p.m. on October 11, 1989.

Betty N. Adams MN, RN  
Associate Director/Nursing Consultant  
for Education

#### **Fiscal and Economic Impact Statement For Administrative Rules**

##### **Rule Title: Nursing Educational Programs LAC46: XLVII.3529.B**

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

There are no estimated implementation costs to state or local government units.

#### **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 government units.

#### **III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON- GOVERNMENTAL GROUPS (Summary)**

Schools of nursing will have more flexibility in utilizing clinical agencies for student learning activities.

#### **IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOY- MENT (Summary)**

There is no anticipated effect on competition and employment in nursing.

Betty N. Adams, M.N., R.N.  
Associate Director/  
Nursing Consultant for Education

David W. Hood  
Senior Fiscal Analyst



## NOTICE OF INTENT

### Department of Health and Hospitals Board of Nursing

The Louisiana State Board of Nursing hereby gives notice that the board, at its November 16-17, 1989 meeting, intends to adopt amendments to the administrative rules:

#### Title 46

### PROFESSIONAL AND OCCUPATIONAL STANDARDS

#### Part XLVII. Nurses

#### Subpart 2. Registered Nurses

### Chapter 35. Nursing Educational Programs

#### §3523.B. Program Evaluation

A. ...

B. The nursing education program shall have a pass rate of 80 percent or greater achieved by the graduates of the program writing the licensing examination for the first time in any one calendar year, or this program shall be placed on conditional approval.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:918.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Nursing, LR 3:188 (April 1977), amended LR 10:1026 (December 1984), amended by Department of Health and Hospitals, Board of Nursing, LR 15:

Public notification made herein indicates no final approval.

The public is made aware of the proposed amendments in compliance with R.S. 49:950 et seq.

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Betty N. Adams MN, RN  
Associate Director/Nursing Consultant  
for Education

### Fiscal and Economic Impact Statement For Administrative Rules

#### Rule Title: Nursing Educational Programs LAC46: XLVII.3523.B

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)  
There are no estimated implementation costs to state or local government units.
- 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 government units.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)  
Schools of nursing will have a broader perspective on the performance of their graduates on the nursing licensure examination in Louisiana and throughout the United States.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no anticipated effect on competition and employment in nursing.

Betty N. Adams, M.N., R.N.  
Associate Director/  
Nursing Consultant for Education

David W. Hood  
Senior Fiscal Analyst

## NOTICE OF INTENT

### Department of Health and Hospitals Board of Pharmacy

In accordance with R.S. 49:950, et seq., the Administrative Procedure Act, notice is hereby given that under R.S. 37:1178 the Louisiana Board of Pharmacy proposes to add to and amend its regulations to set forth procedures whereby bona fide prescriptions and their refills may be transferred by pharmacists between pharmacies.

The proposal amends Title 46, Professional and Occupational Standards, Part LIII. Pharmacists, § 3535 and § 2903, 5, and adds Section 2929.

#### Title 46

### PROFESSIONAL AND OCCUPATIONAL STANDARDS

#### Part LIII. Pharmacists

### Chapter 29. Pharmacy Records

#### §2903. Records

A. ....

B. Prescription

1. - 4. ....

5. Prescription Copies. For patient information or referral, a pharmacist may, upon request, provide a copy of a prescription. The prescription copy must be clearly identified and marked as a copy. Transfer and/or refill dispensing of a copy between pharmacists must be accomplished in accordance with §2929 of these regulations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1178.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 14:708 (October, 1988), amended LR 15:

#### §2929. Transfer of Prescription Information

A. The transfer of original prescription information, for the purpose of refill dispensing, is permissible between pharmacies, subject to the following requirements and/or limitations:

1. the transfer is communicated between two licensed pharmacists in permitted pharmacies;
2. the transfer of original prescription information for controlled substances listed in Schedules III, IV, and V by pharmacists between pharmacies is permissible on a one-time basis;
3. the transfer of prescription information for legend drugs is permissible between pharmacies by pharmacists without limitation up to the number of originally authorized refills;
4. the original and transferred prescriptions must be maintained for no less than five years.

B. Manual Filing System

If a pharmacy maintains prescription information in a manual system, the following is applicable:

1. The pharmacist transferring the prescription information shall:

a. write the word "void" on the face of the invalidated prescription; and

b. record on the reverse of the invalidated prescription the following information:

i. the name, address, and if a controlled substance, the DEA registration number of the pharmacy to which such prescription is transferred;

ii. the name of the pharmacist receiving the prescription information;

iii. the name of the pharmacist transferring the prescription information; and

iv. the date of the transfer.

2. The pharmacist receiving the transferred prescription information shall:

a. write the word "transfer" on the face of the transferred prescription; and

b. record on the transferred prescription the following information:

i. original date of issuance and date of dispensing, if different from date of issuance;

ii. original prescription number and the number of refills authorized on the original prescription;

iii. number of valid refills remaining and the date of last refill;

iv. name, address, and if a controlled substance, the DEA registration number of the pharmacy from which such prescription information is transferred; and

v. name of the pharmacist transferring the prescription information.

#### C. Computerized Filing System

If a pharmacy maintains prescription information in a data processing system, the following is applicable:

1. If the data processing system has the capacity to store all of the information required in Subsection B of this Section, the pharmacist is not required to record this information on the original or transferred prescription.

2. If the data processing system does not have the capacity to store the information required in Subsection B of this Section, the pharmacist must record the required information on the hard copy prescription in the files.

3. The data processing system shall have a mechanism to prohibit the transfer of controlled substance prescriptions which have previously been transferred.

4. The original prescription, in a data processing system, which has been transferred must be invalidated in the data processing system for purposes of refilling, however, the information must be maintained in the system for at least five years.

5. In a data processing system whereby the computerized system is used for refilling purposes, some recognizable information should be available on the CRT so that the pharmacist would recognize a transferred prescription as such on the screen.

D. Verify Transferred Prescription. If the pharmacist has any question concerning the validity of a transferred prescription, the pharmacist should check with the practitioner and generate a new prescription, if authorized.

AUTHORITY NOTE: Promulgated in accordance with R. S. 37:1178.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 14:708 (October, 1988), amended LR 15:

### Chapter 35. Pharmaceutical Manufacturer

#### §3535. Schedule Prescription Copies

Copies of prescriptions for schedule drugs are available

for reference and information. The prescription copy must be clearly identified and marked as a copy. Transfer and/or refill dispensing of Schedule III, IV, or V controlled substances may only be accomplished in accordance with §2929 of these regulations.

AUTHORITY NOTE: Promulgated in accordance with R. S. 37:1178.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 14:708 (October, 1988), amended LR 15:

#### §3553. Prescription Transfer

Controlled dangerous substance prescriptions transferred manually or via computer shall be for reference only and not used for refilling purposes. Any refills on a transferred prescription must be accomplished in accordance with §2929 of these regulations.

AUTHORITY NOTE: Promulgated in accordance with R. S. 37:1178.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 14:708 (October, 1988), amended LR 15:

Interested persons may submit comments and/or view the proposals by contacting: Howard B. Bolton, Executive Director, Louisiana Board of Pharmacy, 5615 Corporate Boulevard, 8-E, Baton Rouge, LA 70808.

A public hearing will be held commencing at 11 a.m., Monday, September 25, 1989, in the Conference Room of the Louisiana Board of Pharmacy, 5615 Corporate Boulevard, Suite 8-E, Baton Rouge, LA.

Howard B. Bolton  
Executive Director

### Fiscal and Economic Impact Statement For Administrative Rules Rule Title: Professional and Occupational Standards, Part LIII, Pharmacists

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

With an intended implementation date of January 1, 1990, implementation costs are estimated at \$1,625.

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

These changes will have no effect on revenue collections of state or local government units.

#### III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)

The changes will allow transfer of valid prescriptions and refills between pharmacists and pharmacies for the convenience of the patients.

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

The changes in these regulations will have no effect on competition and employment.

Howard B. Bolton  
Executive Director

David W. Hood  
Senior Fiscal Analyst

## NOTICE OF INTENT

### Department of Health and Hospitals Board of Physical Therapy Examiners

The Louisiana State Board of Physical Therapy Examiners proposes the following amendments to rules and regulations governing the practice of physical therapy in the state of Louisiana.

#### Title 46 PART LIV. STATE BOARD OF PHYSICAL THERAPY EXAMINERS Subpart 3. Practice

#### Chapter 3. Practice Subchapter A. General Provisions §305. Special Definition: Physical Therapy

A. . . .

*Physical Therapy Evaluation* — means the assessment and resulting interpretation of a patient's condition through the use of patient history, signs, symptoms, objective tests, and measurements to determine neuromusculoskeletal and biomechanical dysfunctions. The conclusions of such evaluation may result in a physical therapy diagnosis and the establishment or modification of treatment goals together with a treatment program.

*Physical Therapy Diagnosis* — as used in the definition of physical therapy evaluation means the specific condition or dysfunction toward which the physical therapist may direct treatment. The physical therapist may only use diagnostic terminology which he can support through patient history, medical records and professionally recognized physical therapy examinations and testing methods which he is educated and trained to perform. The physical therapy diagnosis is not a differential medical diagnosis.

B. - C. . . .

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2401-2418.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Physical Therapy Examiners, LR 13:748 (December 1987), amended by the Department of Health and Hospitals, Board of Physical Therapy Examiners, LR 15:

There will be a public hearing on the proposed rule changes on Thursday, October 5, 1989, at 9:30 a.m. at the Lafayette Parish Government Building, 1010 Lafayette Street, Lafayette, LA. Any comments to the proposed rule amendments may be addressed to: Becky Legé, Louisiana State Board of Physical Therapy Examiners, 332 East Farrel Road, Suite D, Lafayette, LA 70508.

Becky Legé  
Chairman

#### Fiscal and Economic Impact Statement For Administrative Rules Rule Title: Definition

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

There will be no effect on implementation costs to the state or local government units as a result of the rule changes.

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

There will be no effect on the revenue collections of state or local government units due to the proposed rule changes.

#### III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)

There are no estimated costs and/or economic benefits to directly affected persons or non-government groups secondary to this rule change proposal.

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

There will be no effect on competition or employment as a result of this rule change.

Becky Legé  
Chairman of the Board

David W. Hood  
Senior Fiscal Analyst

## NOTICE OF INTENT

### Department of Health and Hospitals Office of Public Health

In accordance with the Louisiana Administrative Procedure Act (R.S. 49:950 et seq.) and Act 231 of the 1989 Regular Legislative Session, the Department of Health and Hospitals proposes to adopt rules and regulations which will provide for certification of laboratories for chemical analysis, analytical results or other appropriated test data as required by the department pursuant to state or federal law.

To aid the public water supplies in meeting their chemical monitoring responsibilities, the Department of Health and Hospitals, Office of Public Health proposes to approve commercial, private, municipal and public water supply laboratories or other full scale laboratories to provide the needed chemical (organic, inorganic and radiological) analytical support for public water systems. This analytical support will help provide public protection from a wide range of health threatening contaminants and keep the Louisiana public water supplies in compliance with the federal and state regulations. Each public water supply will be responsible for paying the contract laboratory for any analytical services provided.

Laboratories seeking certification as a result of this rule-making will be certified in accordance with regulations contained in a proposed Department of Health and Hospitals Manual of Certification Laboratories Analyzing Drinking Water as developed in accordance with the Environmental Protection Agency (EPA) for the same purpose. Due to the length of the certification manual, the text will not be printed here. However, copies of the proposed manual of certification will be available for inspection at the following locations:

REGION I, Metropolitan — 338 Tulane Avenue, Marine Building, Fifth Floor, New Orleans, LA 70119.

REGION II, Capitol — 1220 Main Street, Box 3633, Baton Rouge, LA 70821.

REGION III, Teche — 206 East Third Street, Drawer 1369, Thibodaux, LA 70302.

REGION IV, Acadian — State Office Building, 302 Jefferson, Room 612, Lafayette, LA 70501.

REGION V, Southwest — 4240 Legion Street, Box 16826, Lake Charles, LA 70616.

REGION VI, Central — 1335 Jackson Street, Box 4207, Alexandria, LA 71301.

REGION VII, Northwest — Allen Memorial State Office Building, Fifth Floor, 11525 Fairfield Avenue, Shreveport, LA 71130.

REGION VIII, Northeast — 2913 Betin Street, Box 6118, Monroe, LA 71211-6118.

The Department of Health and Hospitals, Office of Public Health proposes to assess an annual certification fee for laboratories requesting certification to provide chemical analyses or other appropriate test data as required by the department pursuant to state or federal laws relating to public water supplies. The annual certification fee schedule is proposed as follows:

<u>Chemistry</u>	<u>Fees</u>
Any of the following categories:	
Inorganic	\$ 750
Organic	\$ 800
Both of the above mentioned categories	\$1000
Radiological	\$ 800

Proposed fees for certifying laboratories in a state other than Louisiana shall include an additional fee the sum the Department of Health and Hospitals determines to be sufficient to cover the transportation, room and board expenses incurred by the certification official(s).

The proposed rule regarding the certification of laboratories as outlined here within also requires changes in the Louisiana Sanitary Code to read as follows:

12:001 Definitions

*Laboratory Certification Program* is a program carried out by the Department of Health and Hospitals, Office of Public Health and Office of Licensing and Certification to approve commercially and publicly owned laboratories to perform compliance monitoring of public water supplies in accordance with the National Primary Drinking Water Regulations and Chapter XII of the State Sanitary Code. The cost of the program will be re-covered from the laboratories requesting certification.

*Category* means a group of parameters for which certification is offered.

*Certification Fee* is the annual charge assessed laboratories requesting certification from the Department of Health and Hospitals to provide the needed chemical (organic, inorganic and radiological) analytical support for the public water systems.

*Laboratory Certification Manual* is the reference book which contains the Department of Health and Hospitals regulations governing laboratory certification and standards of performance for laboratories conducting drinking water analyses for public water supplies in the State of Louisiana.

*Laboratory Requesting Certification* is an uncertified laboratory which has submitted an acceptable application and appropriate fee(s) for the category in which it desires certification.

12:002-4 *Water Quality Standards*: Each public water supply shall comply with the maximum containment levels prescribed in the National Primary Drinking Water Regulations, Subparts A and B Paragraphs 141.1 through 141.16. The state health officer, upon determining that a risk to human health may exist, reserves the right to limit exposure to any other contaminant. Further, each public water supply should comply with the National Secondary Drinking Water Regulations, Paragraph 143.3. Treatment to remove questionable characteristics shall be approved by the state health officer.

Each public water supply shall comply with the monitoring and analytical requirements as specified in the National Primary Drinking Water Regulations, Subpart C, Paragraph 141.21 through 141.30. A laboratory certification program has been established to approve commercially and publicly owned laborato-

ries to perform chemistry compliance monitoring for public water supplies. Laboratories seeking certification in any chemistry category for which certification is offered must adhere to the rules and regulations governing laboratory certifications as contained in the Department of Health and Hospitals' Laboratory Certification Manual dated September 1989. An annual certification fee will be assessed laboratories seeking certification from the Department of Health and Hospitals.

Interested persons may submit written comments or questions to Dr. Henry Bradford, Laboratory Director, Department of Health and Hospitals, Office of Public Health, Box 60630, New Orleans, LA 70160 until October 4, 1989.

A public hearing on this proposed rule will also be held on Wednesday October 4, 1989 at 10 a.m. in the Plaza Level Hearing Room of the Insurance Commission Building, 950 North Fifth Street, Baton Rouge, LA.

David L. Ramsey  
Secretary

**Fiscal and Economic Impact Statement  
For Administrative Rules**

**Rule Title: DHH Laboratory Certification Program  
(Chemical Analyses)**

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

The estimated costs to the Office of Public Health to implement a laboratory program is approximately \$293,899 including \$250,000 for necessary equipment purchase. After the first year the operating costs should decline to approximately \$48,000 - \$52,000 annually.

Costs to local governments will depend upon the ownership of the water company, the number of samples to be tested and the costs of certification which they request.

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

At the present time there are 13 laboratories seeking laboratory certification. It is anticipated that these labs will request certification in both organic and inorganic analysis. The fee for certifying the analysis of these two groups of analytes will be \$1,000. Thus the anticipated revenue of \$13,000.

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

It is not possible to estimate cost to individual person(s) or non-governmental water companies because the number of samples will vary from water system to water system and it is not known what the charges for the various analytical services will be.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This action will allow for both private labs and local (parish) labs to provide analysis to the Safe Drinking Water Program thus allowing for competition among the various private labs where additional staff will probably have to be hired to handle the additional workload.

With only a limited number of labs available and a number of out of state labs seeking certification, it can be expected that out of state competition and employment will be involved.

Joseph D. Kimbrell  
Deputy Assistant Secretary

John R. Rombach  
Legislative Fiscal Officer

## NOTICE OF INTENT

### Department of Health and Hospitals Office of Public Health

In accordance with the Administrative Procedure Act, as amended, the Department of Health and Hospitals, Office of Public Health intends to adopt Vital Records forms in accordance with R.S. 40:34 (A), to provide for the disposition of confidential medical and social data gathered with the Certificate of Live Birth, and to provide instructions for preparing the Certificate of Live Birth. The promulgation of rules is authorized by R.S. 40:33(C).

#### Title 48

#### PUBLIC HEALTH - GENERAL

#### Part V. Preventive Health Services

#### Subpart 45. Vital Records

#### Chapter 123. Preparation of Certificates

#### §12301. Introduction

A. The certificate forms referenced in the following sections of Chapter 123 are formally adopted. Only those forms prescribed and printed by the state registrar shall be used for reporting births, deaths, marriages, divorces, stillbirths, abortions and for issuing burial transit permits. Forms shall be typewritten in black type or printed in permanent black ink. When computer printers are used, the certificates shall be prepared using only "letter quality" print.

B. If errors are made in preparation, a new document shall be prepared; erasures and the use of liquid paper shall not be permitted. Only those documents completed and executed properly shall be acceptable for registration and/or processing. Certificates deemed incomplete by the state registrar shall not be issued except for use in adoption proceedings, upon subpoena or for use in criminal investigations or law enforcement activities.

#### §12303. Certificate of Live Birth Preparation (PHS 19)

Due to the length of the actual certificate of Live Birth (PHS 19) instructional text for completion of each item contained therein will not be printed here but can be reviewed at the Office of the State Register, Box 94095, Baton Rouge, LA 70804-9095, and at the Office of the Director and State Registrar of the Division of Records and statistics of the Department of Health and Hospitals located at 225 Loyola Avenue, Room 503, New Orleans, LA.

Interested persons may submit written comments at the following address: William H. Barlow, Director and State Registrar, Division of Records and Statistics, DHH-OPH, Box 60630, New Orleans, LA 70160.

David L. Ramsey  
Secretary

#### Fiscal and Economic Impact Statement For Administrative Rules

#### Rule Title: Chapter 123 Preparation of Certificates

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

There are no estimated implementation costs to state or local government units.

#### 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 government units.

#### III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)

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

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

There is no anticipated effect on competition and employment.

Joseph D. Kimbrell  
Deputy Assistant Secretary

John R. Rombach  
Legislative Fiscal Officer

## NOTICE OF INTENT

### Department of Health and Hospitals Office of Public Health

The Department of Health and Hospitals (DHH), Office of Public Health proposes to revise a management fee for the Safe Drinking Water Program in accordance with Act 730 of the 1989 Regular Session of the Louisiana Legislature. The proposed fees are to be assessed to the public water supplies within the state of Louisiana. These management fees are necessary to continue to maintain portions of the Drinking Water Program to help provide the public protection from a wide range of health threatening contaminants and keep the Louisiana public water supplies in compliance with the majority of federal and state regulations.

Previously, the Louisiana Department of Health and Hospitals provided the engineering, chemical and bacteriological surveillance over the public water supplies at no cost to them. Money for the program came from the general fund. With the state's budget cuts, an additional source of money had to be found. Consequently, a Safe Drinking Water Program management fee was instituted under emergency authority in May of 1988. Because of the budget cuts and required program activity increases due to the 1986 amendments to the Safe Drinking Water Act it is necessary to increase the number of engineering staff in the Drinking Water Program without increasing the overall cost of the program. In order to do this, DHH is proposing to make the Safe Drinking Water Program management fee permanent and cut out the DHH's chemical surveillance activities. To aid the public water supplies in meeting their chemical monitoring responsibilities as required by state and federal law, the Department of Health and Hospitals, Office of Public Health and Office of Licensing and Certification are proposing to establish a certification program to approve commercial private, municipal and public water system laboratories to provide the needed chemical (organic, inorganic and radiological) analytical support for the public water supplies. Each public water supply will be responsible for paying the contract laboratory for the analytical services provided.

Any laboratory interested in pursuing approval should contact Dr. Henry Bradford, Laboratory Director, Louisiana Department of Health and Hospitals, Box 60630, New Orleans, LA 70160.

The following section of the Sanitary Code reads as follows:

12:001 Definitions:

*Community Water Supply* is a public water system which

serves at least 15 service connections used by year-round residents or regularly serves at least 25 year-round residents.

*Non-Community Water Supply* is a public water system that does not meet the criteria for a community water supply and serves at least 25 individuals (combination of residents and transients) at least 60 days out of each year.

*Non-Transient Non-Community Water Supply* is a public water system that is not a community system and regularly serves at least 25 of the same persons (non-residents) over six months per year.

*Public Water Supply* is one which provides water to the public and such system has at least 15 service connections or regularly serves an average of at least 25 individuals daily at least 60 days out of the year. (See definitions of community, non-community and non-transient non-community water supplies).

The following section of the Sanitary Code shall be amended to read as follows:

12:001: Definitions: (To be added to current listing)

*Management Fee* is an annual charge assessed to the public water supplies by the Department of Health and Hospitals for management of the Safe Drinking Water Program. Failure to pay this fee will result in a violation of a National Primary Drinking Water Regulation and subsequent issuance of an Administrative Order and/or Administrative Penalty in an amount not to exceed \$5000 per day for each day of violation.

*Service Connection* is a physical connection to a public water supply which may or may not be metered.

The following section shall be added to the State Sanitary Code:

12:002-7 The Department of Health and Hospitals shall assess an annual management fee to the public water supplies (community, non-transient non-community, and non-community) according to the following schedule:

**Community Water Supplies**

Each community water supply will be charged an annual fee based on the number of service connections in the system.

NUMBER OF SERVICE CONNECTIONS CATEGORY	NUMBER OF COMMUNITIES IN EACH CATEGORY	ANNUAL FEE
6-50	598	\$ 25
51-125	236	\$ 500
126-250	172	\$ 600
251-625	208	\$ 700
626-825	48	\$ 800
826-1,250	66	\$ 900
1,251-2,500	71	\$ 1000
2,501-12,500	47	\$ 1500
12,501-18,750	4	\$ 2000
18,751-25,000	6	\$ 2500
25,001-Up	6	\$ 3000

**Non-Community Water Supplies**

Each Non-Community water supply will be charged a flat fee of \$25 per year.

NUMBER OF NON-COMMUNITIES	ANNUAL FEE
591	\$ 25

**Non-Transient Non-Community Water Supplies**

Each Non-Transient Non-Community water supply will be charged a flat fee of \$25 per year.

NUMBER OF NON-TRANSIENT NON-COMMUNITIES	ANNUAL FEE
294	\$ 25

Criteria for the DHH Chemical Laboratory Certification

Program is being proposed simultaneously with this proposal.

Interested persons may submit comments at the following address: Joseph D. Kimbrell, Deputy Assistant Secretary, Office of Public Health, Department of Health and Hospitals, Box 60630, New Orleans, LA 70160. Comments will be received up to and during the public hearing scheduled for 10 a.m. on October 4, 1989. The hearing will be held in the Plaza Level Hearing Room of the State Insurance Building, 950 North Fifth Street, Baton Rouge, LA.

David L. Ramsey  
Secretary

**Fiscal and Economic Impact Statement  
For Administrative Rules  
Rule Title: Safe Drinking Water Program Management  
Fee**

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

The requested fee income when combined with the federal grant and general fund money will pay for the cost of DHH's Safe Drinking Water Program. The requested fee will help fund Engineering Services' 15 additional engineering positions that are needed to bring the staff complement up to a level of 36 which will be adequate to carry out the program's needs. These fifteen positions will be hired with funds reallocated from the laboratory whenever the chemical monitoring of public water supplies by OPH is terminated. Some \$13,000 is needed to cover the cost of postage and computer programming. By implementing the proposed fee package, we will save \$513,056 of general fund money.

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

Current revenue collections for FY 88/89 from the present fee package were approximately \$880,000. The FY 89/90 fee package, if implemented, will generate approximately \$513,056. There should be no effect on local governments because the cost of the fee would be passed on to the water consumer.

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

The economic benefits to the public would result from OPH's ability to continue protecting the safety of the public water supplies. This is accomplished by providing the analysis of bacteriological samples collected from the public water supplies and engineering surveillance over the public water supplies in order to minimize acute (immediate) and chronic (lifetime) health risks to the consumers of the water.

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

There will be no increases in state employment since the positions needed will be funded through reallocation of current positions/funds from the DHH/OPH Laboratory whenever the chemical monitoring of public water supplies by OPH Laboratory is terminated. There will be some competition created between commercial/private labs which will be doing the chemical analyses for public water supplies.

Joseph D. Kimbrell  
Deputy Assistant Secretary

John R. Rombach  
Legislative Fiscal Officer

**NOTICE OF INTENT**

**Department of Health and Hospitals  
Office of Public Health**

In accordance with the laws of the state of Louisiana, R.S. 40:4, 40:5, and in the interest of providing greater means of public health and safety protection, the state health officer is proposing that the following amendments to Louisiana State Sanitary Code, Chapter XXIV, Subsections 24:006 and 24:021, each in part, as promulgated on March 20, 1984, be made:

Amend 24:006 (b) (2), in its entirety, to read, henceforth, as follows:

(2) In large pools, with outlets more than five feet from the end wall, inlets shall be placed on equidistant centers around the entire perimeter of the pool. The maximum distance between inlets shall be 20 feet. Pools more than 30 feet wide shall have bottom inlets, or other demonstrably effective means to provide uniform distribution of disinfectant throughout the pool.

Amend 24:021 a., b., c., d., e., in its entirety, to read, henceforth, as follows:

24:021 LIGHTING: Whenever swimming pools, bathing places, or water slides are to be operated at night, illumination shall be provided as follows:

a. Where night activities are permitted and underwater lighting is used, not less than 0.5 watts\* shall be provided per square foot of pool area. Area lighting shall be provided for the deck areas and directed toward the deck areas away from the pool surface insofar as practical. 0.6 watts per square foot of deck area shall be used.

b. Where night swimming is permitted and underwater lighting is used, area pool lighting combined shall be provided at not less than two watts per square foot of deck area.

\* Values of Efficiency for incandescent lamps assumed to be 20 lamp lumens per watt.

c. In either case, lighting shall be provided in such concentration so as to permit a black circle six inches in diameter on a white field, when placed on the bottom of the pool at the deepest point, to be clearly visible from the deck around the pool at all distances up to 10 yards measured from a line drawn across the pool through said disk.

d. Semi-artificial and natural swimming pools and bathing places

**Minimum Foot-Candles**

(measured vertically on the surface)

All water areas utilized if a large body of water is involved; this amount of light must be present out to 150 feet from the shore 3

Adjacent land areas utilized during swimming or bathing activities 1

e. Stairs from lower to upper areas of water slides shall be provided with at least 10 foot-candles of illumination (measured on the surface).

f. All areas used or traversed by people, inside of all ancillary buildings, shall be provided with at least 10 foot-candles of illumination (measured three feet above the floor)

Comments regarding the proposed rule should be addressed to Joseph D. Kimbrell, Deputy Assistant Secretary-Programs, Office of Public Health, Department of Health and Hospitals, Box 60630, New Orleans, LA 70160. Comments will be received until October 5, 1989.

David L. Ramsey  
Secretary

**Fiscal and Economic Impact Statement  
For Administrative Rules  
Rule Title: Design Requirements for Artificial  
Semi-Artificial, Natural Swimming Pools and Bathing  
Places (Louisiana State Sanitary Code, Chapter XXIV,  
in part)**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)  
No appreciable impact on local government units, as a result of the proposed action is anticipated.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)  
No increase or decrease in revenues is projected to occur as a result of the proposed action.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)  
The proposed action will not cost or be of any economic benefit to the affected persons or non-governmental groups.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)  
The proposed action will not have any effect on competition and employment.

Joseph D. Kimbrell  
Deputy Assistant Secretary

John R. Rombach  
Legislative Fiscal Officer

**NOTICE OF INTENT**

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

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, proposes to adopt the following rule in the Medical Assistance Program.

Currently, Title XIX (Medicaid) recipients in need of inpatient psychiatric services (in free-standing psychiatric facilities enrolled in institutions for mental diseases for recipients under 21 and/or over 65 years of age) are certified as needing such services by a facility team at the time of admission. The bureau has been advised by the Office of Inspector General under the U.S. Department of Health and Human Services that the current procedure may only be utilized for non-Title XIX admissions or persons who have not been determined eligible for Medicaid services at the time of admission. Under 42 CFR 441.152 a Title XIX recipient's need for inpatient psychiatric services must be certified by an independent team which may not include any individual employed by the admitting facility. This interpretation does not apply to acute care hospital distinct part psychiatric units. Through emergency rulemaking, published in the *Louisiana Register*, Vol. 15, No. 6, Page 442, Dated June 20, 1989 the bureau has implemented the federal interpretation of 42 CFR 441.152 as mandated by the OIG findings effective May 8, 1989.

**PROPOSED RULE**

Reimbursement for Psychiatric Hospital admissions (excluding acute care hospital distinct part psychiatric units) under Title XIX shall not be made unless the following certification of need procedures are followed.

## CERTIFICATION OF NEED

The need for services must be established before Medicaid payment can be initiated.

### A. Medicaid Recipient at Admission

For an individual who is a Medicaid recipient when admitted to the facility/program, certification must be made by an independent team consisting of a physician and one or more professional persons. Team composition may be:

1. individual's attending physician

2. admission team (including one physician) from a psychiatric facility other than the admitting facility.

The independent team must certify that the Title XIX recipient needs the services and that all other requirements prescribed under the Standards for Participation for Psychiatric Facilities participating in Title XIX reimbursement are met.

No member of the independent team may be employed by or have a consultant relationship with the admitting facility.

### B. Client Applying for Medicaid

For an individual who applies for Medicaid while in the facility/program, the certification must be made by the interdisciplinary (as required under the Standards for Payment for Psychiatric Facilities) team either employed by or providing services to clients in the facility/program. The interdisciplinary team must certify that the individual needs the service and that all conditions outlined in the Standards for Payment for Psychiatric Facilities are met.

### C. Emergency Admissions

For emergency admissions, the certification must be made by the same facility/program based interdisciplinary team as described above. Emergency admission is described as a situation where the client's condition is such that prompt provision of care is necessary to prevent the death or serious impairment of health of the client.

### D. Court Ordered Admission

A court ordered admission does not in itself justify characterizing an admission as an emergency. Only an immediate admission that is necessary to prevent death or serious impairment to the patient's health is considered an emergency although the court may determine that an emergency exists. The certification of need determination by the appropriate team is required for Medicaid payment regardless of whether a court ordered the admission.

Interested persons may submit written comments to the following address: Carolyn O. Maggio, Acting Director, Bureau of Health Services Financing, Box 94065, Baton Rouge, LA 70804-4065. She is the person responsible for responding to inquiries regarding this proposed rule.

A public hearing on this proposed rule will be held on October 4, 1989 in Auditorium A, Second Floor, 755 Riverside, Baton Rouge, LA, beginning at 9:30 a.m. All interested persons will be afforded an opportunity to submit data, views or arguments, orally or in writing at said hearing.

David L. Ramsey  
Secretary

## Fiscal and Economic Impact Statement For Administrative Rules

### Rule Title: Certification of Need for Psychiatric Hospitalization

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

No fiscal impact is projected to result from adoption of this proposed rule. The federally mandated requirements for certification of need for admission to psychiatric hospitals will have no effect on provider rates.

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

No fiscal impact is projected to result in either an increase or decrease in revenue collections.

#### III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)

This rule maintains high quality health care standards for Title XIX recipients. The impact of this measure on providers cannot be projected.

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

There is no known effect on competition and employment.

Carolyn O. Maggio  
Director

David W. Hood  
Senior Fiscal Analyst

## NOTICE OF INTENT

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

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, proposes to adopt the following rule in the Medical Assistance Program.

Currently, Title XIX coverage (Medicaid) in Louisiana includes Skilled Nursing Facility (SNF) services to care for eligible patients, age 18 or younger, in need of nursing services beyond those provided at an intermediate level. Care for medically stable 24-hour ventilator dependent patients in need of intensive nursing services has been provided primarily in a hospital setting as a result of the cost of providing this type of care.

Under this rule, the Medical Assistance Program will increase in its SNF rate by \$42.38 per day for Technology Dependent children currently being treated by SNF facilities at the SNF rate. This flat rate is based on facility costs for 20 or more cases. To allow for expansion of SNF/TDC services to assure services are available for transfer of cases from the hospital setting to long-term care facilities, enhanced reimbursement procedures are being adopted. Under these procedures, the bureau will authorize enhanced reimbursement of facility start-up costs associated with establishing a SNF/TDC unit within an existing SNF facility participating in Title XIX reimbursement, under certain conditions. To be authorized enhanced reimbursement for technology dependent care, a facility must meet specific requirements which include: a contractual agreement with the bureau to accept 20 or more TDC cases referred from the hospital setting; a valid provider agreement and licensure to provide SNF level services; a written agreement with the hospital to make 20 or more referrals during the 12-month period; and supporting documentation acceptable to the bureau which demonstrates TDC cases treated by the hospital will be able to transfer to the SNF/TDC facility during the 12-month period. Because of the limited number of SNF/TDC cases in need of long-term care services, the bureau will only authorize enhanced reimbursement when



the number of these cases in need of long-term care services cannot be treated in existing facilities providing SNF/TDC services.

This rule was previously adopted under emergency rule-making and published in the *Louisiana Register*, Vol. 15, Page 374, Dated May 20, 1989 and Vol. 15, No. 6, Page 443, Dated June 20, 1989.

#### PROPOSED RULE

Skilled Nursing Facility/Technology Dependent Children (SNF/TDC) services shall be covered under the state's Title XIX Medical Assistance Program in accordance with all applicable federal and state rules and regulations. Participating provider reimbursement shall be limited to \$85 per diem, subject to established SNF payment limitations, standards for participation, and standards for payment with the following additional requirements:

Provision of SNF/TDC services shall be limited to enrolled long-term care facilities who are licensed to provide nursing services at the SNF level of care;

At the end of the facility's current cost reporting period, the facility shall file a standard long-term care facility cost report that shall be subject to audit. All participating facilities will be expected to work closely with the agency to insure that services are provided at the most cost effective rate.

SNF/TDC facilities certified for participation shall adhere to all agency Standards for Payment applicable to Skilled Nursing Facilities and the Children's Hospital protocol for TDC services.

Reimbursement for Skilled Nursing Facility/Technology Dependent Children (SNF/TDC) services provided in a SNF facility which meets the specific requirements outlined below, shall be based on cost not to exceed a per diem rate of \$106.57. Reimbursement for these services shall be subject to established SNF payment limitations, standards for participation, and standards for payment and all additional requirements for provision of SNF/TDC services.

Enhanced payment for SNF/TDC services shall be limited to a single 12-month period to allow for increased start-up costs and shall only be available under the following conditions:

The facility must have entered into a contractual agreement with the bureau to begin providing SNF/TDC services under enhanced reimbursement;

The facility must be licensed to provide nursing services at the SNF level of care;

The facility must have a valid Title XIX provider agreement for provision of SNF services;

The facility must have a valid agreement with a hospital, treating TDC cases on an inpatient basis in Louisiana, to transfer 20 or more SNF/TDC patients eligible for Title XIX services to the facility during the 12-month period of enhanced reimbursement established under the contractual agreement between the bureau and the facility;

The facility must provide documentation and assurances from the hospital, acceptable to the bureau, which demonstrate:

Alternative placement of SNF/TDC cases in existing facilities is not feasible; and

20 or more cases will be transferred to the facility during the 12-month period of enhanced reimbursement;

The facility must provide the bureau with a detailed operating report which projects admissions over the 12-month period, costs per month, and a total projected cost per patient day for the 12-month period; and

At the end of the 12-month period, the facility shall file a

standard long-term care facility cost report that shall be subject to audit and cost settlement, not to exceed \$106.57 per diem.

The facility will be expected to work closely with the bureau to insure that services are provided at the most cost effective rate.

Interested persons may submit written comments to the following address: Carolyn Maggio, Office of the Secretary, Bureau of Health Services Financing, Box 94065, Baton Rouge, LA 70804-4065. She is the person responsible for responding to inquiries regarding this proposed rule.

A public hearing on this proposed rule will be held on October 4, 1989 in Auditorium A, Second Floor, 755 Riverside, Baton Rouge, LA beginning at 9:30 a.m. All interested persons will be afforded an opportunity to submit data, views or arguments, orally or in writing at said hearing.

David L. Ramsey  
Secretary

#### **Fiscal and Economic Impact Statement For Administrative Rules Rule Title: Skilled Nursing Facility Services For Technology Dependent Children**

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

Adoption of SNF/TDC reimbursement rates will result in a savings to the state of: \$781,682 for FY 89/90; and \$1,664,411 for subsequent fiscal years.

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

Under this rule, reduction in Title XIX expenditures will result in reduced federal funding of: \$2,072,213 in FY 89/90; and \$4,527,595 in subsequent fiscal years.

##### III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)

Under this rule, inpatient hospital expenditures will be reduced by \$7,121,880 annually and Long-Term Care expenditures will increase by \$929,874. The impact on individual providers cannot be determined.

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

There is no known effect on competition and employment.

Carolyn O. Maggio  
Director

David W. Hood  
Senior Fiscal Analyst

#### **NOTICE OF INTENT**

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

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, proposes to adopt the following rule in the Title XIX (Medicaid) Program.

Public Law 100-203 mandates preadmission screening and annual resident review for nursing care (Long Term Care services in other than an ICF-MR) to ensure that individuals with

a diagnosis of mental illness or mental retardation receive appropriate levels of care; and that active treatment is available when it is determined that such treatment is needed even when the individual does require a nursing facility level of care. This law will result in the deinstitutionalization of many individuals now placed in nursing facilities. These individuals, as well as others deinstitutionalized from state psychiatric facilities (e.g. Public Law 99-660), will require extensive mental health and/or substance abuse services in the community in order to reduce the disability resulting from mental illness and to restore the individual to his/her best possible functioning level in the community. Therefore, it is necessary to include rehabilitative services for mentally ill adults or emotionally disturbed children as Medicaid services. This provision will then ensure the availability of services necessary to prevent imminent peril to the health and welfare of deinstitutionalized mentally ill individuals and emotionally children. This will also ensure the state's adherence to the federal requirements mandated by Public Law 100-203 in regard to the active treatment provisions for individuals qualifying as in need of nursing facility care, but who also require active treatment of a mental illness, as the necessary rehabilitative services may then be provided as an adjunct via these community-based mental health and/or substance abuse services.

This proposed rule was implemented via emergency rule-making with an effective date of July 1, 1989 as published in the *Louisiana Register* of July 20, 1989 (Vol. 15, Issue No. 6, pages 539-541).

#### PROPOSED RULE

The Bureau of Health Services Financing shall add as Medicaid services, the following rehabilitation services to mentally ill adults or emotionally disturbed children (as defined by the Division of Mental Health) which are necessary to reduce the disability resulting from mental illness and to restore the individual to his/her best possible functioning level in the community:

##### 1. Structured Therapeutic Program

A structured therapeutic program which provides rehabilitative services determined to be necessary for the mentally ill adult or emotionally disturbed child for the reduction of physical or mental disability and restoration of the individual to his best possible functional level. The services must be recommended by and included in the individual's treatment plan as approved by a physician or other licensed practitioner of the healing arts. Units of service shall be hours and reimbursement shall be at a negotiated hourly rate established by the Bureau of Health Services Financing based on the cost of the service.

##### 2. Community Based Crisis Care

Face-to-face services provided by qualified mental health professionals or direct service staff under the supervision of qualified mental health professionals to resolve acute emotional or mental dysfunction and secure appropriate placement in the least restrictive setting; or for continued treatment, follow-up and support services necessary to maintain crisis resolution and restore functioning of the mentally ill adult or emotionally disturbed child to the best possible functional level. All services must be provided in accordance with a treatment plan approved by a licensed physician or other licensed practitioner of the healing arts, with the exception of crisis intervention services, which may be recommended by the qualified mental health professional or licensed physician on duty during the crisis. Units of service shall be hours and reimbursement shall be at a negotiated hourly rate established by the Bureau of Health Services Financing based on the cost of the service.

##### a. Community-based Crisis Care provided in a structured

community setting, staffed with qualified mental health professionals trained in crisis management such as crisis stabilization programs and detoxification programs certified by the Division of Mental Health.

b. Home-based Crisis Care provided in individual or group residential settings (e.g. the client's own home, a foster care home, a shelter, or group home, etc.) by qualified mental health professionals or direct service staff under the supervision of qualified mental health professionals.

##### 3. Psychiatric Rehabilitation Services

Diagnostic and treatment services to individuals with mental or emotional disorders, the individuals' families, and others with significant ties to the clients, which are recommended by and included in the individual's treatment plan as approved by a physician or other licensed practitioner of the healing arts. Services may be provided at any site such as the client's home, school or other community setting. Psychiatric rehabilitation services do not include those services that are part of another community mental health service, such as clinic services, structured therapeutic programs, community-based crisis care services, medication administration and monitoring or case management services (as defined under the case management option of the Title XIX State Plan for the chronically mentally ill). Units of service shall be by service/procedure and shall be reimbursed in accordance with a fee for service established by the Bureau of Health Services Financing.

##### 4. Medication Services

Face-to-face contact by qualified professionals to administer prescribed medications, or to assess or monitor a person's status in relation to treatment with medication. Services must be provided in accordance with a treatment plan approved by a licensed physician or other licensed practitioner of the healing arts, with the exception of crisis services, which may be recommended by the licensed physician on duty during the crisis.

a. **Injectable Medication Administration:** Administration of injectable medication via intradermal, subcutaneous, intramuscular, or intravenous routes by a licensed nurse, a physician or other legally approved person under the supervision of a physician in accordance with a physician's order. Such administration includes preparation of the medication utilizing sterile technique, administration of the medication utilizing proper sites, client assessment and reaction to injection, medication education, and documentation of the medication administration, client response, and medication counseling provided.

Units of service shall be per injection and shall be reimbursed on a fee for service established by the Bureau of Health Services Financing.

b. **Medication Administration By Other Routes:** Administration of medication via routes other than injection. Such medication administration is performed by a licensed nurse, a physician, or other legally approved person under the supervision of a physician in accordance with a physician's order. Administration of these types of medication include preparing and administering medication using proper technique, client assessment and reaction, medication education, and documentation of the medication administration, client response, and medication counseling provided. Units of service shall be per occurrence of administration of medication and shall be reimbursed on a fee for service established by the Bureau of Health Services Financing.

c. **Medication Monitoring:** Face-to-face contact by professional staff authorized by the physician to ascertain the person's response to prescribed medication regimen. Assessment data/description of person's condition is prepared for physician evalu-

ation. Contact is made either in accordance with the person's individual treatment plan or in a crisis situation when the person's documented condition indicates unscheduled review is necessary. Units of service shall be per contact/encounter and shall be reimbursed on a fee for service established by the Bureau of Health Services Financing.

#### Standards for Participation

The provider of rehabilitation services for the mentally ill adult or the emotionally disturbed child (as defined by Division of Mental Health) must:

1. enter into a provider agreement with the Bureau of Health Services Financing, and abide by the provisions of the Provider Agreement and other applicable state and federal regulations related to enrollment as a Medicaid provider;

2. must be certified as a comprehensive community mental health services provider by the Division of Mental Health; or be under subcontract with a comprehensive community mental health services provider certified by the Division of Mental Health;

3. ensure that all rehabilitative services are provided by or under the supervision of a Qualified Mental Health Professional (QMHP) as defined by the Division of Mental Health and who meets one of the following education and experience requirements:

a. a psychiatrist who is duly licensed to practice medicine in the State of Louisiana and has completed an accredited training program in psychiatry; or

b. a psychologist who is licensed as a practicing psychologist under the provisions of state law; or

c. a social worker who holds a master's degree in social work from an accredited school of social work and is a board certified social worker under the provisions of R.S. 37:2701.2718; or

d. a psychiatric nurse who is licensed to act as a registered nurse in the State of Louisiana by the Board of Nursing and:

i. is a graduate of an accredited master's level program in psychiatric mental health nursing with two years experience; or

ii. has a master's degree in behavior science with two years of supervised clinical experience; or

iii. has four years of experience in psychiatric mental health nursing; or

e. a professional mental health counselor who is licensed as a mental health counselor under the provision of state law and has two years experience in mental health; or

f. other qualified mental health professional with a master's degree in a related human services field and two years of supervised clinical experience in mental health services, or an individual with a baccalaureate degree in a related human service field and four years of supervised clinical experience in mental health services.

4. Ensure that services are provided in accordance with an individualized plan of care as approved by a licensed physician or other licensed practitioner of the healing arts who is also a qualified mental health professional;

5. Each comprehensive community mental services provider must establish and maintain a quality assurance committee which shall examine the clinical records for completeness, adequacy and appropriateness of care, and quality of care and efficient utilization of provider resources. A utilization review plan which meets federal and state requirements for mental health services shall be submitted to the Bureau of Health Services Financing for review and approval; and reviews must be con-

ducted in accordance with the approved plan;

6. Ensure that sufficient records to document the rehabilitative services being provided to the mentally ill adult or emotionally disturbed child under this provision are maintained in accordance with state and federal regulations;

7. Comply with state and federal regulations regarding the completion and submittal of cost reports and audit of same.

8. Comply with state and federal regulations regarding subcontracts.

#### Reimbursement

Reimbursement for rehabilitative services to mentally ill adults or emotionally disturbed children shall be in accordance with a negotiated hourly rate or a fee for service established by the Bureau of Health Services Financing based on cost(s) of providing the service. All services are reimbursable only when provided in accordance with a treatment plan approved by a licensed physician or other licensed practitioner of the healing arts, with the exception of crisis care services which may be recommended by the qualified mental health professional or physician on duty during the crisis.

Interested persons may submit written comments to the following address: Carolyn O. Maggio, Director, Bureau of Health Services Financing, Box 91030, Baton Rouge LA, 70821-9030. She is the person responsible for responding to inquiries regarding this proposed rule.

A public hearing on this proposed rule will be held on October 4, 1989 in Auditorium A, Second Floor, 755 Riverside, Baton Rouge LA, beginning at 9:30 a.m. All interested persons will be afforded an opportunity to submit data, views or arguments, orally or in writing at said hearing.

David L. Ramsey  
Secretary

### **Fiscal and Economic Impact Statement For Administrative Rules**

#### **Rule Title: Rehabilitation Services for Mentally III/Emotionally Disturbed**

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

The fiscal impact projected to result from adoption of this proposed rule is an increase in federal expenditures for these services as the costs shift from primarily all state funding to Medicaid (state and federal) funding for rehabilitation services for the mentally ill/emotionally disturbed. The total projected cost in FY 89-90 is \$15,422,001; \$23,656,843 in FY 90-91; and \$32,747,853 in FY 91-92 due to increased utilization and four percent increases in costs.

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

Implementation costs associated with adoption of this proposed rule will result in increased federal revenues of \$11,197,915 for provision of rehabilitation services to the mentally ill/emotionally disturbed population of the state in FY 89-90; \$17,297,884 in FY 90-91; and \$23,945,230 in FY 91-92.

#### **III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON- GOVERNMENTAL GROUPS (Summary)**

This rule provides Medicaid reimbursement for rehabilitation services to the mentally ill adult or emotionally disturbed

child. This will benefit those individuals in need of such services as the availability of the services will increase due to the supplementation of state funds currently used to provide such services, with federal matching funds available for Medicaid services.

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

There is no known effect on competition and employment.

Carolyn O. Maggio  
Director

David W. Hood  
Senior Fiscal Analyst

## Committee Reports

### COMMITTEE REPORT Senate

#### Senate Committee on Natural Resources Oversight Review

Pursuant to the provisions of R.S. 49:968, the Senate Committee on Natural Resources met on September 1, 1989, and reviewed certain changes in state regulations proposed by the Department of Environmental Quality, for which notice of intent was published in the July 20, 1989, *Louisiana Register* with the following results:

(1) Commercial Boiler and Industrial Furnace Rules and Regulations

Upon motion by Senator Chabert and by a vote of three to two, the Senate Committee on Natural Resources rejected the above referenced rule.

F.E. "Hank" Lauricella  
Chairman

### GOVERNOR'S RESPONSE TO COMMITTEE REPORT

September 8, 1989

**(Editor's Note:** As per the following action, the referenced regulations are in effect.)

Dear Senator Lauricella, Representative Bolin and Ms. Abington:

I am this day disapproving the action of the Senate Committee on Natural Resources taken on the first day of September, 1989 wherein the Senate Committee on Natural Resources voted to find unacceptable certain rules and regulations proposed by the Louisiana Department of Environmental Quality entitled "Boiler and Industrial Furnace Rule" and published in

the *Louisiana Register* on July 20, 1989. These rules require commercial boiler and commercial industrial furnaces burning hazardous wastes for recycling purposes to comply with more stringent regulations, including obtaining a permit for operating the combustion unit. I am approving the action of the Oversight Subcommittee of the House Committee on Natural Resources which found the aforementioned rules acceptable.

I am taking this action for the following reasons:

1. Act 874 and Act 730 of the 1988 Regular Session of the Legislature mandated that the Louisiana Department of Environmental Quality adopt rules and regulations under which commercial hazardous waste recycling and resource recovery facilities would be required to obtain a permit to operate, would have to meet certain operating standards to limit air emissions, would have to conduct a detailed trial burn, and other requirements. I believe that the rules as proposed are within the scope and purpose of these Acts and should be adopted.

2. These rules will provide an orderly mechanism for the regulation of commercial hazardous waste recycling and resource recovery facilities in this state. I believe that such regulations are necessary if we are to properly protect the environment in Louisiana.

For these reasons, the rules should be adopted as proposed.

Sincerely,

Buddy Roemer  
Governor

## Potpourri

### POTPOURRI

#### Department of Agriculture and Forestry Office of Agricultural and Environmental Sciences

Crop Pests and Diseases

In accordance with the authority of the state entomologist under the provisions of LAC 7:XV.9509, notice is hereby given that the following area in the state of Louisiana is hereby removed from the "1989 Quarantine List for Sweetpotato Weevil (*Cylas formicarius*, *elegantulus*, *Sum.*)" as a non-sweet potato area:

1. Those portions of the parish of Bienville as follows: The property of R. P. Thomas in the Southeast Corner of Section 23, Township 18 North, Range 7 West; and all properties within a one-mile radius thereof.

Extensive treatment and extensive subsequent surveys have confirmed that the sweetpotato weevil is no longer present in this area.

John W. Impson  
State Entomologist

Bob Odom  
Commissioner

## POTPOURRI

### Department of Health and Hospitals State Board of Medical Examiners

#### NOTICE OF PUBLIC HEARING REGARDING MEDICATION THERAPIES FOR THE TREATMENT OF OBESITY

The Louisiana State Board of Medical Examiners (board) will conduct a public hearing at 3 p.m., Thursday, October 26, 1989, at the offices of the board, Suite 100, 830 Union Street, New Orleans, LA, relative to the effectiveness of various medication therapies employed in the treatment of obesity, including human chorionic gonadotropin (HCG) and thyroid hormones, diuretics, potassium, phenobarbital, and anorectic drugs. In light of scientific evidence questioning the efficacy of such medications when used for weight control, certain contraindications for and medical risks associated with their administration, and the cost of such programs to patients, the board is considering whether rules should be adopted regulating, limiting or prohibiting the use of one or more of such medication therapies by physicians.

The hearing is intended to provide interested parties with an opportunity to comment on the use, effectiveness and risks of such medication regimes and whether administrative regulation is warranted. Persons who wish to comment during the hearing should give written notice to the board office, at the address indicated above, by October 16, 1989. So that all persons desiring to comment in person may be heard, individual presentations should not exceed 10 minutes. Written comments and other information relevant to the matters under consideration by the board may be submitted to the board through November 17, 1989.

Delmar Rorison  
Executive Director

## POTPOURRI

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

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, is hereby clarifying its reimbursement of anesthesia services under the Medicaid Program.

Reimbursement for anesthesia services is made to certified registered nurse anesthetists (CRNAs) or anesthesiologist assistants (AAs) under the same methodology utilized for anesthesiologists. Payment for these services shall not duplicate payments made to anesthesiologists but shall be apportioned to each provider. Physician or dentist supervision of each provider (CRNAs/AAs) as required by Louisiana R.S. 37:930 shall be reimbursed in accordance with current reimbursement policy and apportionment of same between the providers of service.

Certified registered nurse anesthetist (CRNA) is defined as a registered nurse who is licensed by Louisiana and meets any other licensure requirements the state imposes with respect to anesthetists, and is currently certified by either the Council on Certification of Nurse Anesthetists or the Council on Recertifica-

tion of Nurse Anesthetists.

Anesthesiologist Assistant is defined as an individual who:

1. is permitted by state law to administer anesthesia; and
2. has successfully completed a six-year program for anesthesiologist assistants of which two years consists of specialized academic and clinical training in anesthesia.

David L. Ramsey  
Secretary

## POTPOURRI

### Department of Natural Resources Coastal Management Division

The Department of Natural Resources announces that it has available for purchase an audio cassette tape recording of the entire August 24, 1989 hearing the subject matter of which was several proposed methods for marking and labeling certain equipment and pipe used within the Louisiana coastal zone (see *Louisiana Register*, Volume 15, No. 7, p.584). Interested persons may send a check in the amount of \$5, (which includes postage) made payable to the Department of Natural Resources, Box 94396, Baton Rouge, LA. 70804, attention Gerald P. Theriot.

Additionally, the period during which written comments may be submitted on the proposed methods for marking and labeling is extended to November 30, 1989.

Raymond W. Stephens, Jr.  
Secretary

## POTPOURRI

### Department of Natural Resources Office of the Secretary Fishermen's Gear Compensation Fund

In accordance with the provisions of the Fishermen's Gear Compensation Fund, R.S. 56:700.1, notice is given that forty-eight claims amounting to \$89,770.00 were received during the month of August, 1989. During the same month, 112 claims in the amount of \$216,904 were paid and four were denied.

Pursuant to the provisions of Act 33 of 1988, the following claims with the Fishermen's Gear Compensation Fund have been validated by the Fund's hearing examiner and the secretary of DNR will approve payment, effective October 1, 1989.

Written comments from interested parties may be addressed to: Department of Natural Resources, Fishermen's Gear Compensation Fund, Box 94396, Baton Rouge, LA 70804, and must be received on or before September 30, 1989.  
Claim No. 88-89-191

Edward F. Gullie, Jr., Box 202 Gloria Drive, Lafitte, LA 70067, SSN 437-58-6741, Cowhorn Reef (Waterbody), Plaquemines (Parish), Amount \$1456.

Claim No. 87-88-556

Kenneth R. Marrero, P.O. Box 1006, St. Bernard, LA 70085, SSN 438-64-3182, Black Bay, Plaquemines, Amount \$486.94

Claim No. 88-89-409

Roxanne Sevin, Rt. 1 Box 137, Chauvin, LA 70344, SSN 433-96-9594, Lake Pelto, Terrebonne, Amount \$5000.

Claim No. 88-89-354

W.E. Cassidy, 2004 Bonnie Street, Metairie, LA 70001, SSN 438-56-0207, Lake Pontchartrain, Orleans, Amount \$775.

Claim No. 88-89-109

Joseph Gary Verdin, P.O. Box 4, Dulac, LA 70353, SSN 436-68-5612, Gulf Of Mexico, Jefferson, Amount \$1950.51

Claim No. 88-89-394

George A. Kernan, 2328 Upton Street, Mandeville, LA 70448, SSN 434-27-8735, Levee Canal, Plaquemines, Amount \$2594.72

Claim No. 88-89-373

Lenny P. Serpas, Jr., Rt. 1 Box 756 B, Delacroix, LA 70085, SSN 435-17-2627, Lake Fortuna, St. Bernard, Amount \$1605.80

Claim No. 88-89-424

Donnie L. Campo, Rt. 1 Box 605A, St. Bernard, LA 70085, SSN 437-47-3326, Bay Eloi, St. Bernard, Amount \$1686.85

Claim No. 88-89-420

Norman J. Couture, 3416 Compagne Drive, Chalmette, LA 70043, SSN 439-74-2820, Black Bay, Plaquemines, Amount \$1943.08

Claim No. 88-89-448

Tony Guerra, Jr., 832 Florissant Road St., Bernard, LA 70085, SSN 434-50-4851, East Black Bay, Plaquemines, Amount \$5000.

Claim No. 88-89-440

Marcello Reynon, Jr., 2205 Suwannee Drive, Marrero, LA 70072, SSN 438-76-7011, West Bay, Plaquemines, Amount \$2812.36

Claim No. 88-89-423

Charles Robin III, 1941 Russell Drive, St. Bernard, LA 70085, SSN 435-13-0292, Shell Island Lake, St. Bernard, Amount \$788.90

Claim No. 88-89-444

Cary Robin, 1003 E. St. Bernard, Lot 20, Chalmette, LA 70043, SSN 438-86-4855, Bayou Frenepiquant, St. Bernard, Amount \$1801.95

Claim No. 88-89-335

Wilson Assavedo, Rt. 1 Box 543, St. Bernard, LA 70085, SSN 437-54-1833, Lake Borgne, St. Bernard, Amount \$674.90

Claim No. 88-89-449

Luke Petrovich Oysters, Inc., 7231 Spring Lake Drive, New Orleans, LA 70126, Federal I.D. Number 72-0718248, West Cote Blanche Bay, St. Mary, Amount \$5000.

Claim No. 88-89-455

A.R. Womack, Box 222, Lake Arthur, LA 70549, SSN 434-62-8829, Gulf of Mexico, Cameron, Amount \$3996.53

Claim No. 88-89-399

Joey G. Latapie, 3025-V Bayou Road, St. Bernard, LA 70085, SSN 434-06-4716, Atchafalaya Bay, St. Mary, Amount \$3243.43

Claim No. 88-89-370

Lionel J. Parria, Sr., 232 Gloria Street, Lafitte, LA 70067, SSN 436-60-9651, East of Four Bayou Pass, Plaquemines, Amount \$576.96

Claim No. 88-89-442

Alfred Martin, 2005 Perez Drive, Braithwaite, LA 70040, SSN 439-72-6167, Chandeleur Sound, Plaquemines, Amount \$4333.

Claim No. 88-89-431

Charles Ballas, 2104 Belmont Pl., Metairie, LA 70001, SSN 438-56-1153, Chef Menteur Pass, Orleans, Amount \$1857.60

Claim No. 88-89-439

Charles Ballas, 2104 Belmont Pl., Metairie, LA 70001, SSN 438-56-1153, Gulf of Mexico, Plaquemines, Amount \$685.79

Claim No. 88-89-456

Plaquemines Bunkers, Inc., P.O. Box 1202, Mandeville, LA 70470-1202, Federal I.D. Number 72-0468571, Gulf of Mexico, Terrebonne, Amount \$5000.

Claim No. 88-89-466

Earl G. Miller, Jr., 2218 Farmsite Road, Violet, LA 70092, SSN 434-72-0229, Lake Lery, St. Bernard, Amount \$2388.61

Claim No. 88-89-393

Michael Russell, Rt. 6 Box 233, DE, New Orleans, LA 70129, SSN 439-23-4626, Gulf of Mexico, Plaquemines, Amount \$1600.

Claim No. 88-89-242

Didia Guidry, P.O. Box 235, Montegut, LA 70377, SSN 438-58-6889, Humble Canal, Terrebonne, Amount \$3822.

Claim No. 88-89-428

Kevin Evans, P.O. Box 188, St. Bernard, LA 70085, SSN 438-29-7511, Deer Island Bayou, Plaquemines, Amount \$744.45

Claim No. 88-89-436

Kurt Pearson, P.O. Box 1324, Lacombe, LA 70445, SSN 437-70-6272, Lake Athanasio, St. Bernard, Amount \$435.

Claim No. 88-89-471

Leslie Savoie, Rt. 1 Box 245D, Cut Off, LA 70345, SSN 436-60-9042, Gulf of Mexico, Terrebonne, Amount \$972.38

Claim No. 88-89-472

Percy Boudwin, Sr., 3428 East Park Avenue, Houma, LA 70363, SSN 437-44-7012, Gulf of Mexico, Terrebonne, Amount \$3943.16

Claim No. 88-89-474

Peter P. Ronquille, P.O. Box 232, Lafitte, LA 70067, SSN 437-54-0438, Four Bayou Pass, Plaquemines, Amount \$1489.

Claim No. 88-89-469

Dale H. Borden, Rt. 1 Box 580, St. Bernard, LA 70085, SSN 433-58-0646, Mississippi River Gulf Outlet, St. Bernard, Amount \$5000.

Claim No. 88-89-459

Barisich Inc., 2812 Meraux Lane, Violet, LA 70092, Federal I.D. No. 72-0809358, Intracoastal Waterway, St. Mary, Amount \$5000.

Claim No. 88-89-452

Michael Matherne, Box 435A, Baratavia, LA 70036, SSN 435-54-3935, Hackberry Bay, Lafourche, Amount \$1110.89

Claim No. 88-89-507

Ronald Thomassie, P.O. Box 231, Lafitte, LA 70067, SSN 438-58-5291, Gulf of Mexico, Jefferson, Amount \$2247.91

Claim No. 88-89-473  
Dwayne Boudwin, 3428 E. Park Street, Houma, LA  
70363, SSN 437-19-0626, East Island, Terrebonne, Amount  
\$936.40  
Claim No. 88-89-478  
Voyager Marine Inc., 710 W. Pine Street, Erath, LA  
70533, Federal I.D. No. 72-0928277, Loran 26928.9 46963.2,  
Cameron, Amount \$2515.29  
Claim No. 88-89-480  
Roland G. Navarro, 3209 Bayou Road, St. Bernard, LA

70085, SSN 433-90-0651, Loran 27360.4 46940.4, Vermilion,  
Amount \$3442.58  
Claim No. 88-89-479  
Lady Linda Inc., 106 E. 68th Street, Cut Off, LA 70345,  
Federal I.D. No. 72-0975467, Loran 28564.7 46861.7, Jeffer-  
son, Amount \$1045.75

Raymond W. Stephens, Jr.  
Secretary

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**PPM—Policy and Procedure Memorandum R—Rule**





