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Title 46
PROFESSIONAL AND OCCUPATIONAL STANDARDS
Part XLV. Medical Professions
Subpart 1. General

Chapter 1. Fees and Costs
Subchapter A. General Provisions

§101. Scope of Chapter

A. The rules of this Chapter prescribe the fees and costs payable to and recoverable by the board with respect to the various services and functions performed by the board for or on behalf of the applicants for licensure, certification, or registration, the holders of licenses and certificates issued by the board and the public.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270 and R.S. 37:1281.
HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 10:906 (November 1984).

§103. Form of Payment Required

A. Payment to the board of any fees or costs in excess of $25 shall be made in the form of a check or money order.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270 and R.S. 37:1281.
HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 10:906 (November 1984).

§105. Payments Nonrefundable

A. Except as may be expressly provided by these rules, all fees and costs paid to the board shall be nonrefundable in their entirety.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270 and R.S. 37:1281.
HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 10:906 (November 1984).

§107. Dishonored Checks

A. In addition to the amount of fees and costs elsewhere prescribed in this Chapter, a handling charge of $10 shall be payable to the board by any person who, in payment of fees or costs, tenders to the board any check, draft, or other instrument which is dishonored by the financial institution against which it is drawn.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270 and R.S. 37:1281.
HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 10:906 (November 1984).

Subchapter B. General Fees and Costs

§113. Miscellaneous Fees and Costs

A. For providing the services indicated, the following fees shall be payable to and recoverable by the board.

1. Photocopies of documents, per page $ 0.25
2. Certification of document as true copy $ 2.00
3. Certification of document(s) as official records $ 4.00
4. Official list of licensees $ 5.00
5. Duplicate original certificate of license, certificate of permit $10.00

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270 and R.S. 37:1281.
HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 10:906 (November 1984).

§115. Reciprocity Endorsement

A. For processing and handling a request by any licensee, certificate or permit holder, or registrant for the board's endorsement of such person's licensure or certification status to another state for the purpose of reciprocity licensure or certification, a fee of $25 shall be payable to the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270 and R.S. 37:1281.
HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 10:906 (November 1984).

§117. Handling and Mailing Costs

A. In addition to any fees or costs elsewhere prescribed in this Chapter, when any service performed by the board requires, by its nature, or as requested by the person on whose behalf such service is performed, that the board incur any postage, mailing, shipping, handling, insurance, or other costs, any such costs in excess of the then-applicable minimum first class postage shall be payable to and recoverable by the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270 and R.S. 37:1281.
HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 10:906 (November 1984).

Subchapter C. Physicians and Surgeons Fees

§123. Scope of Subchapter

A. The rules of this Subchapter prescribe the fees and costs applicable to the licensing, certification, and registration of physicians and surgeons.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270 and R.S. 37:1281.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 10:906 (November 1984).

§125. Licenses, Permits, and Examination

A. For processing applications for licensure of the type indicated, the following fees shall be payable to the board.

1. Standard application $250
2. Reciprocity application $350

B. For processing applications for permits of the type indicated, the following fees shall be payable to the board.

1. Graduate medical education temporary permit $200
2. Visiting physician permit $100
3. Short-term residency permit $100
4. Other institutional or temporary permits $100

C. For registration for and taking any step or portion of the United States Medical Licensing Examination (USMLE) or of the Special Purpose Examination (SPEX), the fee which shall be payable by the applicant to the board shall be equal to the cost of the examination to the board as charged by the Federation of State Medical Boards of the United States, Inc. With respect to each scheduled administration of an examination, the cost of the examination may be determined upon request of the office of the board and shall be set forth in application forms and materials furnished by the board upon request of the applicant.

D. When an applicant is required by Chapter 3 of these rules to take all or a portion of the USMLE, the fees prescribed by §125.C shall be added to the applicable application processing fee.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270 and R.S. 37:1281.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 10:906 (November 1984), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 17:603 (June 1991), LR 21:467 (May 1995), LR 21:1238 (November 1995), LR 30:238 (February 2004).

§127. Postgraduate Education Registration

A. For processing an application for and issuance of a certificate of registration pursuant to Subchapter J of Chapter 3 of these rules, a fee of $50 shall be payable to the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270 and 37:1281.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 10:907 (November 1984), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 21:1238 (November 1995), LR 30:238 (February 2004).

§131. Annual Renewal

A. For processing a licensee's annul renewal of license under §417 of these rules, a fee of $300 shall be payable to the board.

B. For processing a permit holder's annual renewal of a graduate medical education temporary permit, a fee of $100 shall be payable to the board.

C. For processing renewal of an institutional or other temporary permit, a fee of $100 shall be payable to the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270 and 37:1281.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 10:907 (November 1984), amended LR 12:767 (November 1986), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 21:1238 (November 1995), LR 30:239 (February 2004).

Subchapter D. Podiatrists Fees

§137. Scope of Subchapter

A. The rules of this Subchapter prescribe the fees and costs applicable to the licensing of podiatrists.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270 and R.S. 37:1281.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 10:907 (November 1984).

§139. Licenses, Permits, and Examination

A. For processing an application for licensure as a podiatrist, a fee of $300 shall be payable to the board.

B. For issuing a temporary permit, a fee of $100 shall be payable to the board.

C. For registration for and taking of the oral examination administered by the board, a fee of $50 shall be payable to the board.

D. When an applicant is required by these rules to take the oral examination administered by the board, the fee prescribed by §139.C shall be added to the applicable application processing fee.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270, R.S. 37:1281, R.S. 37:613, R.S. 618, R.S. 621-622.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 10:907 (November 1984), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 30:239 (February 2004).

§141. Annual Renewal

A. For processing a podiatrist's annual renewal of license, a fee of $200 shall be payable to the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270, R.S. 37:1281, R.S. 37:613, R.S. 618, R.S. 621-622.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 10:907 (November 1984), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 30:239 (February 2004).

§143. Podiatric Postgraduate Education Registration

A. For processing an application for and issuance of a certificate of registration pursuant to Subchapter K of Chapter 13 of these rules, a fee of $50 shall be payable to the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270, R.S. 37:1281, R.S. 37:613, R.S. 618, R.S. 621-622.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 30:239 (February 2004).

Subchapter E. Physicians Assistants Fees

§147. Scope of Subchapter

A. The rules of this Subchapter prescribe the fees and costs applicable to the certification of physicians assistants.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270, R.S. 37:1281 and R.S. 37:1360.24.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 10:907 (November 1984).

§149. Certification

A. For processing an application for certification as a physician assistant, a fee of $250 shall be payable to the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270, R.S. 37:1281, R.S. 37:1362.23, R.S. 37:1360.24.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 10:907 (November 1984), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 30:238 (February 2004).

§151. Locum Tenens Application

A. For processing an application for certification as a locum tenens with respect to a supervising physician, a fee of $25 shall be payable to the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270, R.S. 37:1281 and R.S. 37:1360.24.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 10:907 (November 1984).

§153. Annual Renewal

A. For processing an application for annual renewal of a physician assistant's certification, a fee of $150 shall be payable to the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270, R.S. 37:1281, R.S. 37:1360.23, R.S. 37:1360.27.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 10:907 (November 1984), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 30:238 (February 2004).

Subchapter F. Athletic Trainers Fees

§159. Scope of Subchapter

A. The rules of this Subchapter prescribe the fees and costs applicable to the certification of athletic trainers.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270, R.S. 37:1281 and R.S. 37:3301-3312.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 10:907 (November 1984), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 30:234 (February 2004).

§161. Certification, Permits, and Examination

A. For processing applications for certification as an athletic trainer, a fee of $125 shall be payable to the board.

B. For issuing a temporary permit, a fee of $50 shall be payable to the board.

C. For registration for and taking of the certification examination administered by the board, an applicant shall pay the fee that is charged by the entity developing the examination.

D. When an applicant is required by these rules to take the examination administered by the board, the fee prescribed by §161.C shall be added to the applicable application processing fee.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270, R.S. 37:1281 and R.S. 37:3301-3312.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 10:907 (November 1984), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 30:234 (February 2004).

§163. Annual Renewal

A. For processing an application for annual renewal of an athletic trainer's certification, a fee of $100 shall be payable to the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270, R.S. 37:1281 and R.S. 37:3301-3312.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 10:907 (November 1984), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 30:235 (February 2004).

Subchapter G. Occupational Therapists and Occupational Therapy Assistants Fees

§171. Scope of Subchapter

A. The rules of this Subchapter prescribe the fees and costs applicable to the licensing of occupational therapists and occupational therapy assistants.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270 and R.S. 37:1281.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 10:907 (November 1984).

§173. Licenses and Permits

A. For processing an application for an occupational therapist's license a fee of $150 shall be payable to the board.

B. For processing an application for an occupational therapy assistant's license a fee of $100 shall be payable to the board.

C. For issuing a temporary permit, a fee of $50 shall be payable to the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3001-3014, R.S. 37:1270, R.S. 37:1281.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 10:907 (November 1984), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 30:237 (February 2004).

§175. Annual Renewal

A. For processing an application for annual renewal of an occupational therapist's license, a fee of $100 shall be payable to the board.

B. For processing an application for annual renewal of an occupational therapy assistant's license a fee of $75 shall be payable to the board.

C. If the application for renewal is received beyond the deadline designated by the board, a late renewal fee of $35 shall be payable to the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3001-3014, R.S. 37:1270, R.S. 37:1281.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 10:907 (November 1984), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 30:237 (February 2004).

§177. Reinstatement of License

A. For processing an application for reinstatement of a license which has lapsed by expiration and nonrenewal, a fee of $25 shall be payable to the board in addition to the applicable renewal fee.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270 and R.S. 37:1281.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 10:907 (November 1984).

Subchapter H. Acupuncturists and Acupuncturists' Assistants Fees

§183. Scope of Subchapter

A. The rules of this Subchapter prescribe the fees and costs applicable to the certification of acupuncturists and acupuncturists' assistants.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270 and R.S. 37:1281.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 10:907 (November 1984).

§185. Certification

A. For processing an application for certification as an acupuncturist or as an acupuncturist assistant, a fee of $200 shall be payable to the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270, R.S. 37:1281 and R.S. 37:1360.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 10:907 (November 1984), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 30:234 (February 2004).

§187. Annual Renewal

A. For processing an application for annual renewal of an acupuncturist's or acupuncturist assistant's certification, a fee of $100 shall be payable to the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270, R.S. 37:1281 and R.S. 37:1360.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 10:908 (November 1984), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 30:234 (February 2004).

Subchapter I. Respiratory Therapists/Respiratory Therapy Technicians

§193. Scope of Subchapter

A. The rules of this Subchapter prescribe the fees and costs applicable to the licensing of registered respiratory therapists and certified respiratory therapists.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3351-3361, R.S. 37:1270 and R.S. 37:1281.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 10:908 (November 1984), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 30:239 (February 2004).

§195. Licenses

A. For processing an application for licensing a registered respiratory therapist, a fee of $150 shall be payable to the board.

B. For processing an application for licensing a certified respiratory therapist, a fee of $100 shall be payable to the board.

C. For processing a temporary license, a fee of $50 shall be payable to the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3351-3361, R.S. 37:1270, R.S. 37:1281.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 10:908 (November 1984), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 30:240 (February 2004).

§197. Annual Renewal

A. For processing an application for annual renewal of a registered respiratory therapist's license, a fee of $100 shall be payable to the board.

B. For processing an application for annual renewal of a certified respiratory therapist's license a fee of $75 shall be payable to the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3351-3361, R.S. 37:1270 and R.S. 37:1281.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 30:240 (February 2004).

Subchapter J. Midwives Fees

§201. Scope of Subchapter

A. The rules of this Subchapter prescribe the fees and costs applicable the licensing of midwives.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270, R.S. 37:1281, R.S. 37:1277, R.S. 37:3243 and R.S. 37:3242.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 10:908 (November 1984).

§203. Licenses and Permits

A. For processing an application for a midwifery license, a fee of $200 shall be payable to the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3240-3257, R.S. 37:1270, R.S. 37:1281.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 10:908 (November 1984), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 30:236 (February 2004).

§205. Renewal

A. For processing an application for biannual renewal of a midwifery license, a fee of $100 shall be payable to the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3240-3257, R.S. 37:1270, R.S. 37:1281.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 30:236 (February 2004).

Subchapter K. Adjudication Proceedings Costs

§209. Subpoenas

A. For issuance and service of a subpoena or subpoena duces tecum with respect to an administrative hearing under Chapter 99 of these rules, a fee of $4 shall be payable to the board in addition to the witness fees prescribed by law [see R.S. 49:956(5)].

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270 and R.S. 37:1281.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 10:908 (November 1984).

Subchapter L. Clinical Exercise Physiologists Fees

§221. Scope of Subchapter

A. The rules of this Subchapter prescribe the fees and costs applicable to the licensing of clinical exercise physiologists.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3421-3433, R.S. 37:1270 and R.S. 37:1281.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 30:235 (February 2004).

§223. Licenses and Permits

A. For processing an application for a license as a clinical exercise physiologist, a fee of $150 shall be payable to the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3421-3433, R.S. 37:1270 and R.S. 37:1281.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 30:235 (February 2004).

§225. Annual Renewal

A. For processing an application for annual renewal of a license as a clinical exercise physiologist, a fee of $100 shall be payable to the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3421-3433, R.S. 37:1270 and R.S. 37:1281.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 30:236 (February 2004).

Title 46
PROFESSIONAL AND OCCUPATIONAL STANDARDS
Part XLV. Medical Professions
Subpart 2. Licensure and Certification

Chapter 3. Physicians
Subchapter A. General Provisions

§301. Scope of Chapter

A. The rules of this Chapter govern the licensing of physicians to engage in the practice of medicine in the state of Louisiana.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270, R.S. 37:1271, R.S. 37:1272 and R.S. 37:1274.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 10:908 (November 1984), amended LR 16:513 (June 1990), LR 27:835 (June 2001).

§303. Definitions

A. As used in this Chapter, the following terms shall have the meanings specified.

Applicant a person who has applied to the board for a license or permit to engage in the practice of medicine in the state of Louisiana or for a registration to engage in the first year of continuing postgraduate medical education.

Application a written request directed to and received by the board, upon forms supplied by the board, for a license or permit to practice medicine in the state of Louisiana or for a registration to engage in the first year of continuing postgraduate medical education, together with all information, certificates, documents, and other materials required by the board to be submitted with such forms.

Good Moral Character as applied to an applicant, means that:

a. the applicant has not, prior to or during the pendency of an application to the board, been guilty of any act, omission, condition, or circumstance which would provide legal cause under R.S. 37:1285 for the suspension or revocation of medical licensure;

b. the applicant has not, prior to or in connection with his application, made any representation to the board, knowingly or unknowingly, which is in fact false or misleading as to a material fact or omits to state any fact or matter that is material to the application; or

c. the applicant has not made any representation or failed to make a representation or engaged in any act or omission which is false, deceptive, fraudulent, or misleading in achieving or obtaining any of the qualifications for a license or permit required by this Chapter.

License the lawful authority of a physician to engage in the practice of medicine in the state of Louisiana, as evidenced by a certificate duly issued by and under the official seal of the board.

Medical Practice Act or *the Act* R.S. 37:1261-1292, as hereafter amended or supplemented.

Permit the lawful authority of a physician to engage in the practice of medicine in the state of Louisiana for a designated, temporary period of time, subject to restrictions and conditions specified by the board, as evidenced by a certificate duly issued by and under the official seal of the board. A permit is of determinate, limited duration and implies no right or entitlement to a license or to renewal of the permit.

Physician a person possessing a doctor of medicine (allopathic/M.D.), doctor of osteopathy or doctor of osteopathic medicine degree (osteopathic/D.O.) or an equivalent degree duly awarded by a medical or osteopathic educational institution approved by the board pursuant to §§333 to 341 of this Chapter.

Postgraduate Year One (Internship) Registration the lawful authority of a physician to engage in the first year of continuing postgraduate medical education in the state of Louisiana at a medical education or internship program approved by the board, as evidenced by a certificate of registration duly issued by and under the official seal of the board.

State any state of the United States, the District of Columbia and Puerto Rico.

B. Masculine terms wheresoever used in this Chapter shall also be deemed to include the feminine.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270, R.S. 37:1271 and R.S. 37:1274.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 10:908 (November 1984), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 16:513 (June 1990), LR 27:835 (June 2001).

Subchapter B. Graduates of American and Canadian Medical School and Colleges

§309. Scope of Subchapter

A. The rules of this Subchapter govern the licensing of physicians who are graduates of medical or osteopathic schools and colleges approved by the board located within any state or in Canada.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270, R.S. 37:1271, R.S. 37:1272, R.S. 37:1274 and R.S. 37:1275.1.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 10:908 (November 1984), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 16:513 (June 1990), LR 27:836 (June 2001).

§311. Qualifications for License

A. To be eligible for a license, an applicant shall:

1. be at least 21 years of age;

2. be of good moral character as defined by §303.A;

3. be a citizen of the United States or possess valid and current legal authority to reside and work in the United States duly issued by the commissioner of the Immigration and Naturalization Service of the United States under and pursuant to the Immigration and Nationality Act (66 Stat. 163) and the commissioner's regulations thereunder (8 CFR);

4. possess:

a. a doctor of medicine or equivalent degree duly issued and conferred by a medical school or college approved by the board; or

b. a doctor of osteopathic medicine or doctor of osteopathy degree issued and conferred on or after June 1, 1971, by a school or college of osteopathic medicine approved by the board;

5. have within the prior 10 years, in conformity with the restrictions and limitations prescribed by §387 of these rules, and subject to the exception provided for certain applicants for licensure by reciprocity provided by §353, taken and passed:

a. all three steps of the United States Medical Licensing Examination (USMLE) of the Federation of State Medical Boards of the United States, Inc. (FSMB); or

b. both components of the Federation Licensing Examination (FLEX) of the FSMB; or

c. all three parts of the examinations of the National Board of Medical Examiners (NBME); or

d. Step 1 of the USMLE or Part I of the NBME, Step 2 of the USMLE or Part II of the NBME, and Step 3 of the USMLE or Part III of the NBME; or

e. Component 1 of the FLEX and Step 3 of the USMLE; or

f. Step 1 of the USMLE or Part I of the NBME and Step 2 of the USMLE or Part II of the NBME and Component 2 of the FLEX; or

g. Levels 1 and 2 of the COMLEX-USA examinations or its predecessor, the NBOME, or any combination thereof developed by the National Board of Osteopathic Medical Examiners (NBOME) and Step 3 of USMLE; or

h. subject to the additional requirements set forth in §311.A.6, all three levels of the COMLEX-USA examination, or its predecessor, the NBOME, or any combination thereof; and

6. have completed at least one year of postgraduate clinical training in a medical internship or equivalent program accredited by the American Council on Graduate Medical Education (ACGME) of the American Medical Association, or by the American Osteopathic Association (AOA), or by the Royal College of Physicians and Surgeons (RCPS) of Canada, and approved by the board. Other than physicians seeking licensure by reciprocity, applicants who have taken and successfully passed all three levels of the COMLEX-USA or its predecessor, the NBOME, or any combination thereof, must also provide evidence of the applicant's acceptance, continued participation in and completion of a postgraduate medical training program (residency training) in a medical school, college or other accredited medical institution in Louisiana which has been approved by the board, which program will make the applicant board eligible for certification by a specialty board recognized by the American Board of Medical Specialties (ABMS).

B. The burden of satisfying the board as to the qualifications and eligibility of the applicant for licensure shall be upon the applicant. An applicant shall not be deemed to possess such qualifications unless the applicant demonstrates and evidences such qualifications in the manner prescribed by, and to the satisfaction of, the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270, R.S. 37:1271, R.S. 37:1272, R.S. 37:1274 and R.S. 37:1275.1.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 10:908 (November 1984), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 16:513 (June 1990), LR 22:207 (March 1996), withdrawal LR 22:280 (April 1996), amended LR 27:836 (June 2001).

§313. Procedural Requirements

A. In addition to the substantive qualifications specified in §311, to be eligible for a license, an applicant shall satisfy the procedures and requirements for application provided by §§359 to 365 of this Chapter and, if applicable, the procedures and requirements for examination provided by §§371 to 391 of this Chapter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270, R.S. 37:1271, R.S. 37:1272, R.S. 37:1274 and R.S. 37:1275.1.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 10:908 (November 1984), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 16:513 (June 1990), LR 22:207 (March 1996), withdrawal LR 22:280 (April 1996), amended LR 27:837 (June 2001).

§315. Waiver of Qualifications

A. Upon request by an applicant, supported by certification from the dean of a medical school or college within the state of Louisiana which is approved by the board,

the board may, in its discretion, waive the qualifications for licensure otherwise required by §311.A.5 or 6, in favor of an applicant who has been formally appointed by and with such medical school or college to a:

1. permanent and not time delimited tenured track position as full professor or associate professor; or

2. position as a clinical full professor or clinical associate professor on a full-time clinical track.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270, R.S. 37:1271, R.S. 37:1272, R.S. 37:1274 and R.S. 37:1275.1.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 10:909 (November 1984), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 16:513 (June 1990), LR 27:837 (June 2001).

Subchapter C. International Medical Graduates

§321. Scope of Subchapter; Definition

A. The rules of this Subchapter specify additional qualifications, requirements, and procedures for the licensing of physicians who are international medical graduates.

B. As used in this Subchapter, the term *international medical graduate* or *IMG* means a graduate of a medical school or college not located in any state or in Canada, recognized and officially listed by the World Health Organization and not affirmatively disapproved by the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270, R.S. 37:1271, R.S. 37:1272 and R.S. 37:1275.1.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 10:909 (November 1984), amended LR 12:528 (August 1986), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 16:514 (June 1990), LR 22:208 (March 1996), withdrawal LR 22:280 (April 1996), amended LR 27:837 (June 2001).

§323. Qualifications for License

A. To be eligible for a license, an international medical graduate applicant shall:

1. possess all of the substantive qualifications for license specified by §311 of this Chapter;

2. have taken and successfully passed the examination administered by the Educational Council on Foreign Medical Graduates (ECFMG), or its successor examination having successfully passed the USMLE in accordance with the standards, restrictions and limitations prescribed by §§385 and 387 of this Chapter;

3. be competent and proficient in speaking, understanding, reading, and writing the English language; and

4. have completed at least three years of postgraduate clinical training in the United States or in Canada in a medical residency or equivalent program accredited by the ACGME of the American Medical Association, or by the RCPS of Canada, and approved by the board. To be approved by the board such program must be offered and taken in an institution offering not fewer than two residency or equivalent programs accredited by the ACGME or the RCPS; the program in which the applicant participates must evidence the applicant's progressive responsibility for patient care; and the three years of such a program must be in the same specialty or alternatively, constitute the IMG, upon completion of the three years of such program, as eligible for specialty board certification or for postgraduate year four (PGY-4) training.

B. In addition to the qualifications specified in §323.A, if an IMG applicant has participated in any clinical clerkship program within the United States as part of the academic training requisite to his doctor of medicine degree, such clinical clerkship program shall be subject to approval by the board as a condition of the applicant's eligibility for licensure. Such a clinical clerkship program may be approved by the board only if, at the time the applicant participated in such program, the clinical clerkship program was accredited or approved by the ACGME, the clinical clerkship was served in a hospital or other institution accredited by the Joint Commission on Accreditation of Health Care Organizations, and the applicant's supervising physician within such program held formal appointment as a professor or associate professor of the medical school or college sponsoring such program; provided, however, that notwithstanding a clinical clerkship program's satisfaction of these standards, the board may decline to approve any such program upon a finding that it was not substantially equivalent to the clinical clerkships offered by the medical schools and colleges accredited by the Liaison Committee on Medical Education of the American Medical Association and the Association of American Medical Colleges.

C. The burden of satisfying the board as to the qualifications and eligibility of the IMG applicant for licensure shall be upon the applicant. An applicant shall not be deemed to possess such qualifications unless the applicant demonstrates and evidences such qualifications in the manner prescribed by, and to the satisfaction of, the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270, R.S. 37:1272 and R.S. 37:1275.1.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 10:909 (November 1984, amended LR 12:528 (August 1986), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 16:514 (June 1990), LR 22:208 (March 1996), withdrawal LR 22:280 (April 1996), amended LR 27:837 (June 2001).

§325. Procedural Requirements

A. In addition to the substantive qualifications specified in §323, to be eligible for a license, an IMG applicant shall satisfy the procedures and requirements for application provided by §§359 to 365 of this Chapter; if applicable, the procedures and requirements for examination provided in §§371 to 391 of this Chapter; and shall provide certified verification of his medical school transcript, reflecting the

courses and hours taken and grades achieved together with a detailed description of each clinical clerkship in which the applicant may have participated as part of his medical education, specifying the inclusive dates and sites of any such clerkship and the name and address of the applicant's supervising physician therein.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270, R.S. 37:1272 and R.S. 37:1275.1.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 10:908 (November 1984), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 16:515 (June 1990), LR 22:208 (March 1996), withdrawal LR 22:280 (April 1996), amended LR 27:838 (June 2001).

§327. Waiver of Qualifications

A. The waiver of qualifications provided by §315 of this Chapter shall be available to international medical graduate applicants.

B. Upon request by an applicant, the board may, in its discretion, waive the necessity of successfully passing the ECFMG examination, as otherwise required by §323.A.2, in favor of an applicant who is currently certified by a specialty board recognized by the American Board of Medical Specialties.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270, R.S. 37:1272 and R.S. 37:1275.1.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 10:909 (November 1984), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 16:515 (June 1990), LR 22:208 (March 1996), withdrawal LR 22:280 (April 1996), amended LR 27:838 (June 2001).

Subchapter D. Board Approval of Medical Schools and Colleges

§333. Scope of Subchapter

A. The rules of this Subchapter provide the method and procedures by which medical schools and colleges and schools or colleges of osteopathic medicine are approved by the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270 and R.S. 37:1272.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 10:909 (November 1984), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 16:515 (June 1990), LR 27:838 (June 2001).

§335. Applicability of Approval

A. Graduation from an approved school is among the qualifications requisite to medical licensure as provided by §311.A.4 (American and Canadian graduates), §323.A.1 (international medical graduates), and §353 (reciprocity applicants). This qualification will be deemed to be satisfied if the school or college from which the applicant graduated was approved by the board as of the date the applicant's degree was issued.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270 and R.S. 37:1272.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 10:909 (November 1984), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 16:515 (June 1990), LR 22:208 (March 1996), withdrawal LR 22:280 (April 1996), amended LR 27:838 (June 2001).

§337. Approval of American Schools and Colleges

A. A medical school or college located in any state which is currently accredited by the Liaison Committee on Medical Education of the American Medical Association and the Association of American Medical Colleges, or their successors, shall be concurrently considered approved by the board.

B. A school or college of osteopathic medicine located in any state which is currently accredited by the American Osteopathic Association, or its successor, shall be concurrently considered approved by the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270 and R.S. 37:1272.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 10:909 (November 1984), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 16:516 (June 1990), amended LR 27:838 (June 2001).

§339. Approval of Canadian Schools

A. A medical school or college located in Canada which is currently accredited by the RCPS of Canada, or its successor, shall be concurrently considered approved by the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270 and R.S. 37:1272.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 10:909 (November 1984), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 27:838 (June 2001).

§341. Recognition of International Medical Schools

A. To be considered acceptable as evidence of basic medical education, a medical school or college not located in any state or in Canada shall, at a minimum, be recognized and officially listed by the World Health Organization and not affirmatively disapproved by the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270 and R.S. 37:1272.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 10:909 (November 1984), amended LR 12:528 (August 1986), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 16:516 (June 1990), LR 27:839 (June 2001).

Subchapter E. Licensure by Reciprocity

§351. Definition

Licensure by Reciprocity the issuance of a license to practice medicine on the basis of medical licensure by another state medical or osteopathic licensing authority pursuant to written examination acceptable to the board as specified by §353.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270 and R.S. 37:1276.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 10:909 (November 1984), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 16:515 (June 1990), LR 27:839 (June 2001).

§353. Qualifications for Medical Licensure by Reciprocity

A. An applicant who possesses and meets all of the qualifications and requirements specified by §§311 and 313 of this Chapter, save for successfully passing the examinations in the manner specified by §311.A.5(a)-(h) within the prior 10 years, shall nonetheless be eligible for licensing if such applicant possesses, as of the time the application is filed and at the time the board passes upon such application, a current, unrestricted license to practice medicine issued by the medical (whether allopathic or osteopathic) licensing authority of another state, and the applicant has, within 10 years prior to the date of application, taken and successfully passed a written certification or recertification examination administered by and leading to certification or recertification by a specialty board recognized by the American Board of Medical Specialties (ABMS).

B. An allopathic physician applicant who possesses all of the qualifications for licensure by reciprocity specified by §353.A, save for having taken or passed a written medical competence examination within 10 years of the date of application, shall nonetheless be considered eligible for licensure by reciprocity if such applicant has, within 10 years prior to the date of application, taken and successfully passed the Special Purpose Examination (SPEX), administered under the auspices of the Federation of State Medical Boards of the United States, Inc. (FSMB), as may be determined by the board.

C. An osteopathic physician applicant who possesses all of the qualifications for licensure by reciprocity specified by §353.A, but whose passage of a written certification or recertification examination administered by a specialty board recognized by the ABMS was more than 10 years prior to the date of application, shall nonetheless be considered eligible for licensure by reciprocity if such applicant has, within 10 years prior to the date of the application, taken and successfully passed the SPEX, administered under the auspices of the FSMB, as may be determined by the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270 and R.S. 37:1276.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 10:910 (November 1984), amended LR 14:149 (March 1988), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 16:516 (June 1990), LR 22:209 (March 1996), withdrawal LR 22:280 (April 1996), amended LR 27:839 (June 2001).

Subchapter F. Application

§359. Purpose and Scope

A. The rules of this Subchapter govern the procedures and requirements applicable to application to the board for licensing as a physician in the state of Louisiana.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270 and R.S. 37:1278.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 10:910 (November 1984), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 27:839 (June 2001).

§361. Application Procedure

A. Application for unrestricted licensing shall be made upon forms supplied by the board.

B. Application forms and instructions pertaining thereto may be obtained at any time from the board's web page at www.lsbme.org or upon written request directed to the office of the board, 630 Camp Street, New Orleans, LA, 70130. Application forms will be mailed by the board within 30 days of the board's receipt of request therefor.

C. An application for licensing under this Chapter shall include:

1. proof, documented in a form satisfactory to the board, that the applicant possesses the qualifications set forth in this Chapter;

2. three recent photographs of the applicant; and

3. a certified copy of the applicant's birth certificate, along with such other information and documentation as the board may require to evidence qualification for licensing.

D. All documents required to be submitted to the board must be the original thereof. For good cause shown, the board may waive or modify this requirement.

E. The board may refuse to consider any application which is not complete in every detail, including submission of every document required by the application form. The board may, in its discretion, require a more detailed or complete response to any request for information set forth in the application form as a condition to consideration of an application.

F. Each application submitted to the board shall be accompanied by the applicable fees, as provided in these rules and the Medical Practice Act.

G. Upon submission of or concurrently with submission of a completed application, an applicant shall, by appointment, make a personal appearance before the board,

a member of the board, or its designee, as a condition to the board's consideration of such application. At the time of such appearance, the applicant shall present the original of the documents required under this Chapter. The recommendation of the board, board member, or designee as to the applicant's fitness for licensure shall be made a part of the applicant's file.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270, R.S. 37:1277, R.S. 37:1278 and R.S. 37:1281.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 10:910 (November 1984), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 16:516 (June 1990), LR 22:209 (March 1996), withdrawal LR 22:280 (April 1996), amended LR 27:839 (June 2001).

§363. Additional Requirements for International Medical Graduates

A. Any diploma or other document required to be submitted to the board by an IMG applicant which is not in the English language must be accompanied by a certified translation thereof into English.

B. In addition to the procedures and requirements set forth in §361, upon submission of a completed application, an IMG applicant shall, by appointment, make a personal appearance before a member of the board as a condition to the board's consideration of such application.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270 and R.S. 37:1278.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 10:910 (November 1984), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 16:517 (June 1990), LR 22:210 (March 1996), withdrawal LR 22:280 (April 1996), amended LR 27:840 (June 2001).

§365. Effect of Application

A. The submission of an application for licensing to the board shall constitute and operate as an authorization by the applicant to each educational institution at which the applicant has matriculated, each state or federal agency to which the applicant has applied for any license, permit, certificate, or registration, each person, firm, corporation, clinic, office, or institution by whom or with whom the applicant has been employed in the practice of medicine, each physician or other health care practitioner whom the applicant has consulted or seen for diagnosis or treatment and each professional organization or specialty board to which the applicant has applied for membership, to disclose and release to the board any and all information and documentation concerning the applicant which the board deems material to consideration of the application. With respect to any such information or documentation, the submission of an application for licensing to the board shall equally constitute and operate as a consent by the applicant to disclosure and release of such information and documentation and as a waiver by the applicant of any privilege or right of confidentiality which the applicant would otherwise possess with respect thereto.

B. By submission of an application for licensing to the board, an applicant shall be deemed to have given his consent to submit to physical or mental examinations if, when, and in the manner so directed by the board and to waive all objections as to the admissibility or disclosure of findings, reports, or recommendations pertaining thereto on the grounds of privileges provided by law. The expense of any such examination shall be borne by the applicant.

C. The submission of an application for licensing to the board shall constitute and operate as an authorization and consent by the applicant to the board to disclose and release any information or documentation set forth in or submitted with the applicant's application or obtained by the board from other persons, firms, corporations, associations, or governmental entities pursuant to §365.A or B to any person, firm, corporation, association, or governmental entity having a lawful, legitimate, and reasonable need therefor, including, without limitation, the medical licensing authority of any state; the Federation of State Medical Boards of the United States; the American Medical Association; the American Osteopathic Association; the Louisiana Osteopathic Association; any component state and county or parish medical society, including the Louisiana State Medical Society and component parish societies thereof; the Federal Drug Enforcement Agency; the Louisiana Office of Narcotics and Dangerous Drugs, Division of Licensing and Registration; the Department of Health and Hospitals; federal, state, county, parish and municipal health and law enforcement agencies; and the Armed Services.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270 and R.S. 37:1278.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 10:911 (November 1984), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 16:517 (June 1990), LR 27:840 (June 2001).

Subchapter G. Examination

§371. Designation of Examinations

A. Examinations recognized by the board pursuant to R.S. 37:1272(5) as qualifying for a license to practice medicine include those examinations set forth and in the manner specified by §311.A.5. Application for taking Step 3 of the USMLE is made to the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270, R.S. 37:1272 and R.S. 37:1273.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 10:911 (November 1984), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 16:518 (June 1990), LR 22:210 (March 1996), withdrawal LR 22:280 (April 1996), amended LR 27:840 (June 2001).

§379. Subversion of Examination Process

A. An applicant-examinee who is reported to the board as having engaged or attempted to engage in conduct which subverts or undermines the integrity of the examination process shall be subject to the sanctions specified in §383 of this Chapter.

B. Conduct which subverts or undermines the integrity of the examination process shall be deemed to include:

1. refusing or failing to fully and promptly comply with any rules, procedures, instructions, directions, or requests made or prescribed by the entity offering the examination or those administering it;

2. removing from the examination room or rooms any of the examination materials;

3. reproducing or reconstructing, by copy, duplication, written notes, or electronic recording, any portion of the licensing examination;

4. selling, distributing, buying, receiving, obtaining, or having unauthorized possession of a future, current, or previously administered licensing examination;

5. communicating in any manner with any other examinee or any other person during the administration of the examination or providing substantive examination content or answers thereto to another examinee after the examination;

6. copying answers from another examinee or permitting one's answers to be copied by another examinee during the administration of the examination;

7. having in one's possession during the administration of the examination any materials or objects other than the examination materials distributed, including, without limitation, any books, notes, recording devices, or other written, printed, electronic or recorded materials or data of any kind;

8. impersonating an examinee by appearing for and as an applicant and taking the examination for, as and in the name of an applicant other than himself;

9. permitting another person to appear for and take the examination on one's behalf and in one's name; or

10. engaging in any conduct which disrupts the examination or the taking thereof by other examinees.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270, R.S. 37:1272 and R.S. 37:1273.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 10:911 (November 1984), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 16:518 (June 1990), LR 22:211 (March 1996), withdrawal LR 22:280 (April 1996), amended LR 27:841 (June 2001).

§381. Finding of Subversion

A. When, during the administration of examination, the reasonable cause exists to believe that an applicant-examinee is engaging or attempting to engage, or has engaged or attempted to engage, in conduct which subverts or undermines the integrity of the examination process, the entity administering the examination shall take such action as it deems necessary or appropriate to terminate such conduct and shall report such conduct in writing to the board.

B. When the board, upon information provided by the entity administering the examination, an applicant-examinee, or any other person, has probable cause to believe that an applicant has engaged or attempted to engage in conduct which subverts or undermines the integrity of the examination process, the board shall so advise the applicant in writing, setting forth the grounds for its finding of probable cause, specifying the sanctions which are mandated or permitted for such conduct by §383 of this Subchapter and provide the applicant with an opportunity for hearing pursuant to R.S. 49:955-58 and applicable rules of the board governing administrative hearings. Unless waived by the applicant, the board's finding of fact, its conclusions of law under these rules, and its decision as to the sanctions, if any, to be imposed shall be made in writing and served upon the applicant.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270, R.S. 37:1272 and R.S. 37:1273.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 10:912 (November 1984), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 16:518 (June 1990), LR 22:211 (March 1996), withdrawal LR 22:280 (April 1996), amended LR 27:841 (June 2001).

§383. Sanctions for Subversion of Examination

A. An applicant who is found by the board, prior to the administration of the examination, to have engaged in conduct or to have attempted to engage in conduct which subverts or undermines the integrity of the examination process may be permanently disqualified from taking the examination and for medical licensure in the state of Louisiana.

B. An applicant-examinee who is found by the board to have engaged or to have attempted to engage in conduct which subverts or undermines the integrity of the examination process shall be deemed to have failed the examination. Such failure shall be recorded in the official records of the board.

C. In addition to the sanctions permitted or mandated by §383.A or B, as to an applicant-examinee found by the board to have engaged or to have attempted to engage in conduct which subverts or undermines the integrity of the examining process, the board may:

1. revoke, suspend, or impose probationary conditions on any license or permit issued to such applicant;

2. disqualify the applicant, permanently or for a specified period of time, from eligibility for licensure in the state of Louisiana; or

3. disqualify the applicant, permanently or for a specified number of subsequent administrations of the examination, from eligibility for examination.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270, R.S. 37:1272 and R.S. 37:1273.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 10:912 (November 1984), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 16:519 (June 1990), LR 22:211 (March 1996), withdrawal LR 22:280 (April 1996), amended LR 27:841 (June 2001).

§385. Passing Scores

A. An applicant will be deemed to have successfully passed the USMLE, COMLEX-USA or NBME examination if he attains a score of at least 75 on each step, level or part of the examination.

B. An applicant will be deemed to have successfully passed the FLEX examination if he attains a score of at least 75 on each component of the examination or having taken the FLEX when a weighted average was calculated and reported thereon, had attained a FLEX weighted average of at least 75.

C. A person who is required to and does take the SPEX examination will be deemed to have successfully passed the examination if he attains a score of at least 75.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270, R.S. 37:1272 and R.S. 37:1273.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 10:912 (November 1984), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 16:519 (June 1990), LR 22:211 (March 1996), withdrawal LR 22:280 (April 1996), amended LR 27:842 (June 2001).

§387. Restriction, Limitation on Examinations

A. An applicant who has failed to attain a passing score upon taking Step 2 or Step 3 of the USMLE more than three times, or who has failed to attain a passing score upon taking Part 2 or Part 3 of the NBME more than three times, or who has failed to attain a passing score upon taking any component of the FLEX more than three times, or who has failed to attain a passing score upon taking Level 2 or Level 3 of the COMLEX-USA or its predecessor, the NBOME or any combination thereof more than three times, shall thereafter be deemed ineligible for licensing. The limitation stated herein with respect to the taking of the USMLE shall be applicable when such examination is taken as a component of obtaining a Standard ECFMG Certificate.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270, R.S. 37:1272 and R.S. 37:1273.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 10:912 (November 1984), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 16:519 (June 1990), LR 27:842 (June 2001).

§389. Examination in or for Another State

A. Upon application to the board, an applicant for licensing under this Chapter may be permitted to take Step 3 of the USMLE in another state. The score attained by such applicant on such examination will be accepted by the board as if the applicant had taken the USMLE pursuant to application to the board provided that the examination is administered and taken consistently with the restrictions and limitations prescribed by §387.

B. A USMLE score attained by an applicant on a USMLE examination administered prior to the applicant's application to the board for licensing will be accepted by the board, provided that:

1. the applicant presents or causes to be presented to the board written certification of the date and place that the USMLE was taken and the score achieved;

2. the examination was administered and taken consistently with the rules, regulations, restrictions and limitations prescribed by §387 and by the medical licensing authority of the state for which the examination was taken;

3. the applicant has completed at least one year of postgraduate training, if such training is a condition to medical licensure in the state in which the examination was taken; and

4. the applicant provides the board with a satisfactory written explanation of the applicant's failure to obtain licensing in the state in which the examination was taken.

C. Upon application to the board and payment of the fee prescribed in Chapter 1 of these rules, an individual applying for licensure in another state may sit for the USMLE examination administered in Louisiana.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270, R.S. 37:1272 and R.S. 37:1273.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 10:912 (November 1984), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 16:519 (June 1990), LR 27:842 (June 2001).

§391. Lost, Stolen, or Destroyed Examinations

A. The submission of an application for examination to the board shall constitute and operate as an acknowledgment and agreement by the applicant that the liability of the board, its members, employees, and agents, and the state of Louisiana to the applicant for the loss, theft, or destruction of all or any portion of an examination taken by the applicant, prior to the reporting of the score thereon by the entity offering such examination, other than by intentional act, shall be limited exclusively to the refund of the fees, if any, paid to the board for examination by the applicant.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270, R.S. 37:1272 and R.S. 37:1273.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 10:912 (November 1984), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 16:520 (June 1990), LR 27:842 (June 2001).

Subchapter H. Restricted Licensure, Permits

§397. Restricted Licensure in General

A. With respect to applicants who do not meet or possess all of the qualifications and requirements for licensing, the board may, in its discretion, issue such restricted licenses as are, in its judgment, necessary or appropriate to its responsibilities under law. Restricted licenses shall be designated and known as permits.

B. A temporary permit entitles the holder to engage in the practice of medicine in the state of Louisiana only for the period of time specified by such permit and creates no right or entitlement to licensing or renewal of the permit after its expiration.

C. An institutional permit entitles the holder to engage in the practice of medicine only at, in and in association with the medical institution, clinic, or location specified by such permit or within a specified medical training program approved by the board.

D. A permit issued by the board may be either temporary or institutional, or both. Other permits may be issued by the board upon such terms, conditions, limitations, or restrictions as to time, place, nature, and scope of practice, as are, in the judgment of the board, deemed necessary or appropriate to the particular circumstances of individual applicants or physicians.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270, R.S. 37:1285 and R.S. 37:1275.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 10:912 (November 1984), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 16:520 (June 1990), LR 27:842 (June 2001).

§399. Types of Permits

A. The types of permits which the board may consider issuing, as enumerated in the following Sections of this Subchapter, shall not be construed to provide any right or entitlement whatsoever to the described permit, issuance of which shall be determined in the absolute discretion of the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270, R.S. 37:1285 and R.S. 37:1275.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 10:913 (November 1984), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 16:520 (June 1990), repromulgated LR 27:843 (June 2001).

§401. Provisional Temporary Permit Pending Application for Visa

A. The board may issue a provisional temporary permit to an applicant for any license or permit provided for by these rules who is otherwise completely qualified for such license or permit, save for possessing an H-1 or equivalent visa as may be required by these rules, provided that the applicant has completed all applicable requirements and procedures for issuance of a license or permit and is eligible for an H-1 or equivalent visa under rules and regulations promulgated by the United States Immigration and Naturalization Service (INS).

B. A provisional temporary permit issued under this Section shall be of the same type and scope, and subject to the same terms and restrictions, as the license or permit applied for, provided, however, that a provisional temporary permit issued under this Section shall expire, and become null and void, on the earlier of:

1. 90 days from the date of issuance of such permit;

2. 10 days following the date on which the applicant receives notice of INS action granting or denying the applicant's petition for an H-1 or equivalent visa; or

3. the date on which the board gives notice to the applicant of its final action granting or denying issuance of the license or permit applied for.

C. The board may, in its discretion, extend or renew, for one or more additional 90-day periods, a provisional temporary permit issued hereunder which has expired pursuant to §401.B.1, in favor of an applicant who holds a provisional temporary permit issued under this Section and who has filed a petition for H-1 or equivalent visa with the INS, but whose pending petition has not yet been acted on by the INS within 90 days from issuance of such provisional temporary permit.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270 and R.S. 37:1275.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 17:1101 (November 1991), repromulgated LR 27:843 (June 2001).

§402. Provisional Temporary Permit Pending Results of Criminal History Record Information

A. The board may issue a provisional temporary permit to an applicant for any license or permit provided for by these rules who is otherwise completely qualified for such license or permit, save for the board having received a report from the Louisiana bureau of criminal identification and information of the office of state police within the Department of Public Safety and Corrections (Bureau) or the Federal Bureau of Investigation of the United States Department of Justice (FBI), concerning state and national criminal history record information which the board has requested pursuant to the Medical Practice Act or by these rules, provided that the applicant has completed all applicable requirements and procedures for issuance of a license or permit, submitted or attempted to submit fingerprints and all other required information to the board necessary to obtain criminal history record information and paid all applicable fees and costs prescribed by these rules and the Medical Practice Act.

B. A provisional temporary permit issued under this Section shall be of the same type and scope, and subject to the same terms and restrictions, as the license or permit applied for, provided, however, that a provisional temporary permit issued under this Section shall expire, and become null and void, on the earlier of:

1. 90 days from the date of issuance of such permit; or

2. the date on which the board gives notice to the applicant of its final action granting or denying issuance of the license or permit applied for following its receipt of criminal history record information.

C. The board may, in its discretion, extend or renew for one or more additional 90-day periods, a provisional temporary permit issued hereunder which has expired pursuant to §402.B.1, in favor of an applicant who holds a provisional temporary permit issued under this Section who has submitted or attempted to submit fingerprints and all other required information and paid all applicable fees and costs attendant thereto but whose criminal history record

information has not been received from the Bureau or the FBI within 90 days from issuance of such provisional temporary permit.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270, R.S. 37:1275 and R.S. 37:1277, R.S. 37:1281.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 27:843 (June 2001).

§403. Visiting Physician Permits

A. The board may issue a visiting physician temporary permit to an applicant physician who is invited by one or more physicians licensed under this Chapter to participate or consult in diagnosis or treatment of a patient under care in a Louisiana medical institution, provided that such invited physician:

1. possesses the qualifications for licensing prescribed by §311.A.1-4;

2. within a reasonable time prior to the intended consultation or treatment, presents or causes to be presented to the board:

a. indisputable personal identification;

b. verification satisfactory to the board that the applicant holds a current unrestricted license to practice medicine issued by the medical or osteopathic licensing authority of another state or, if an alien, holds an unrestricted license or other legal authorization to engage in the practice of medicine in his domicile country; and

c. written recommendations by two physicians licensed under this Chapter attesting to the professional qualifications of the visiting physician and assuming responsibility for his professional activities and patient care; and

3. satisfies the applicable fees prescribed in these rules and the Medical Practice Act.

B. The board may issue a visiting professor temporary permit to an applicant physician who is invited by an accredited medical school or college within the state of Louisiana approved by the board to serve on the faculty of the school or college, provided that such invited professor:

1. possesses the qualifications for licensing prescribed by §311.A.1-4;

2. presents or causes to be presented to the board:

a. indisputable personal identification;

b. a completed application on forms furnished by the board; and

c. verification satisfactory to the board that the applicant holds a current unrestricted license to practice medicine issued by the medical or osteopathic licensing authority of another state; and

3. satisfies the applicable fees prescribed in these rules and the Medical Practice Act.

C. The board may issue a foreign exchange visiting professor temporary permit to an applicant physician who is invited by an accredited medical school or college within the state of Louisiana approved by the board to participate in an exchange of faculty between the applicant's medical school or college and the Louisiana medical school or college, provided that such invited foreign exchange professor:

1. possesses the qualifications for licensing prescribed by §311.A.1-4;

2. presents or causes to be presented to the board:

a. indisputable personal identification;

b. an H-1 or equivalent visa;

c. a completed application on forms furnished by the board; and

d. verification satisfactory to the board that the applicant holds a current unrestricted license to engage in the practice of medicine in his domicile country; and

3. satisfies the applicable fees prescribed in these rules and the Medical Practice Act.

D. The board may issue a visiting physician evaluation temporary permit to an applicant physician to conduct a non-invasive evaluation of an individual located in Louisiana, who has given his consent thereto, provided that while acting under the authority of such permit in this state such physician shall not utilize the results of his evaluation to treat any medical condition which he may determine such individual to suffer, or engage in any activity beyond the scope of authority specifically conferred by such permit, provided that such evaluating physician:

1. possesses the qualifications for licensing prescribed by §311.A.1-4;

2. within a reasonable time prior to the intended evaluation presents or causes to be presented to the board:

a. indisputable personal identification;

b. verification satisfactory to the board that the applicant holds a current unrestricted license to practice medicine issued by the medical or osteopathic licensing authority of another state or, if an alien, holds an unrestricted license or other legal authorization to engage in the practice of medicine in his domicile country;

c. a letter setting forth the location and date on and where such evaluation is to be conducted;

d. verification satisfactory to the board that the evaluation sought to be performed will be undertaken with the consent of the individual to be evaluated; and

2. satisfies the applicable fees prescribed in these rules and the Medical Practice Act.

E. A temporary permit issued under §403.A or D may be restricted by the board to permit a specific act in consultation or evaluation and/or to restrict consultation, treatment or evaluation to a designated patient. Temporary permits issued under §403.B and C are limited to a term of 12 months from the date of issuance.

F. A temporary permit issued under this Section shall expire, and thereby become null, void, and to no effect on the date specified by such permit.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270, R.S. 37:1275, R.S. 37:1277, R.S. 37:1278, R.S. 37:1281 and R.S. 37:1285.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 10:913 (November 1984), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 16:520 (June 1990), LR 27:843 (June 2001).

§404. Continuing Postgraduate Training beyond Year One

A. The board shall issue an institutional temporary permit to an applicant of an approved American or Canadian medical school or college (whether allopathic or osteopathic) for the purpose of participating in an accredited program of postgraduate medical training (residency training), beyond postgraduate year one, in a Louisiana medical school, college or other accredited medical institution approved by the board.

B. Qualifications for Permit. To be eligible for an institutional temporary permit for postgraduate medical training beyond year one, the applicant shall:

1. possess all of the substantive qualifications for licensure specified by §311.A.1-4;

2. have completed one year of postgraduate training as required by §311.A.6;

3. have submitted documentation to the board from the director of the program certifying the applicant's qualification for and appointment to the postgraduate year two (PGY-2) or higher level of the program; and

4. satisfy the applicable fees prescribed in these rules and the Medical Practice Act.

C. Procedural Requirements. An application form will be supplied by the board only after the qualifications prescribed by §404.B.3 have been documented by an original letter, signed by the director of the program at which the applicant will train, certifying that the qualifications and conditions of such Subsection have been met.

D. Restrictions and Limitations. A physician (whether allopathic or osteopathic) holding a permit under this Subsection shall not enroll or participate in postgraduate medical training or otherwise engage in the practice of medicine in this state, other than at and within the scope of the program for which such person has been approved by the board.

E. Term of Permit. A permit issued under this Section shall expire and become null and void on the earliest of the following dates:

1. 12 months from the date on which it was issued;

2. effective on the date that the permittee's appointment to the program for which he was approved by the board is terminated; or

3. the date on which the board gives notice to the permittee of its final action granting or denying issuance of a license to practice medicine.

F. Renewal, Reissuance. A permit issued under this Section which has expired may be renewed or reissued by the board for one or more successive 12 month periods, provided that:

1. prior to the expiration of the initial institutional temporary permit, permit holder has taken and successfully passed all three steps of USMLE or all three levels of COMLEX-USA or all steps, levels, parts or components of those examinations in the manner specified by §311.A.5.a-h, within the limitations and restrictions prescribed by §387 of these rules; and

2. not less than two months prior to the annual expiration of the permit, the director of the program in which the permittee is enrolled has submitted to the board a written report on the permittee's performance in such program, certifying to the board that:

a. the permit holder has performed successfully and competently in such program;

b. the medical school, college or other accredited medical institution will renew the permittee's appointment for an additional year; and

c. no grounds are known which would provide cause for the board to refuse to renew or to revoke the permittee's permit pursuant to §404.H.

G. Causes for Refusal to Issue or Renew. Notwithstanding an applicant's eligibility for an institutional permit under this Section, under the standards and criteria set forth in this Section, the board may nevertheless deny issuance or renewal of such permit for any of the causes for which it may deny licensure under R.S. 37:1285(A) or for which it may revoke an institutional temporary permit pursuant to §404.H.

H. Causes for Revocation. Upon prior notice and an opportunity to be heard in accordance with the Louisiana Administrative Procedure Act, a permit may be revoked by the board:

1. for any of the causes specified by R.S. 37:1285(A);

2. upon a finding by the board that the permittee has failed to maintain, or did not possess at the time of the application, any of the qualifications requisite to eligibility for the permit as prescribed by this Section; or

3. upon a finding by the board that the permittee has exceeded the scope of authority accorded by the permit or otherwise violated any of the conditions, restrictions, and limitations prescribed by §404.D hereof.

I. Effect of Revocation. A permittee who has had his institutional temporary permit revoked by the board pursuant to §404.H shall not thereafter be eligible for a permit or a license to practice medicine in the state of Louisiana.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270, R.S. 37:1275, R.S. 37:1277, R.S. 37:1281 and R.S. 37:1285.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 27:844 (June 2001).

§405. Short-Term Residency Permit

A. The board may issue an institutional temporary permit to an applicant who is a commissioned physician of the Armed Services of the United States for the purpose of receiving postgraduate clinical training in a medical program approved by the board and conducted by a Louisiana medical school, college, or other accredited medical institution provided that such physician:

1. possesses the qualifications for licensing prescribed by §311.A.1-4;

2. possesses a current unrestricted license to practice medicine issued by the medical or osteopathic licensing authority of another state, or has successfully passed the USMLE, FLEX, NBME, COMLEX-USA or NBOME examinations in the manner specified by §311.A.5;

3. will participate in such postdoctoral medical training program pursuant to and within the course and scope of his orders and duties as a commissioned officer of the Armed Services;

4. within a reasonable time prior to the commencement of such training program, presents or causes to be presented to the board:

a. satisfactory documentation that he possesses the qualifications required by this Section, including a certified copy of his military orders authorizing and directing his participation in the specified medical training program; and

b. written certification by the dean of the medical school or college in which the applicant is to receive such training that the applicant has been accepted for participation in such program subject to the issuance of a permit by the board; and

5. satisfies the applicable fees prescribed in these rules and the Medical Practice Act.

B. The board may, in its discretion, issue a temporary permit for the purpose of serving a preceptorship or participating in a short-term residency program conducted by a Louisiana medical school, college, or other accredited medical institution to an applicant who possesses the qualifications for licensure prescribed by §311.A.1-4 and who possesses a current unrestricted license to practice medicine in, and duly issued by, any state; provided that:

1. the preceptorship or residency program is approved by the board;

2. the applicant presents, or causes to be presented, to the board:

a. a completed application for a short-term residency permit upon the form provided by the board, together with the fees prescribed by these rules and the Medical Practice Act:

b. satisfactory documentation that the applicant possesses the qualifications required by this Section;

c. written certification of current unrestricted licensure by the state in which the applicant resides at the time of the application or satisfactory documentation of having passed the examinations in the manner specified by §311.A.5; and

d. a letter from the physician under whom he will be serving in the preceptorship or short-term residency, describing the capacity in which the applicant will be serving and the inclusive dates of such service; and

3. the applicant appears in person before and presents to a member of the board his original doctor of medicine, doctor of osteopathic medicine or doctor of osteopathy degree and original certificate of state medical licensure.

C. The holder of a permit issued under this Section shall not engage in the practice of medicine in any respect in the state of Louisiana or receive medical educational training other than within the postdoctoral medical educational program, preceptorship, or short-term residency program for which he is approved by the board.

D. A temporary permit issued under this Section shall expire, and thereby become null and void and to no effect on the date specified by such permit.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270, R.S. 37:1275, R.S. 37:1277, R.S. 37:1281 and R.S. 37:1285.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 10:913 (November 1984), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 16:521 (June 1990), LR 22:211 (March 1996), withdrawal LR 22:280 (April 1996), amended LR 27:845 (June 2001).

§407. Permit Pending Examination Results

A. The board may issue an institutional temporary permit for the sole purpose of serving in an approved medical residency training program to a graduate of an American or Canadian medical school or college or school of osteopathic medicine who has taken the USMLE or COMLEX-USA examination but whose scores have not yet been reported to the board or who is scheduled to take the USMLE or COMLEX-USA examination at its next administration, to be effective pending the reporting of such scores to the board, provided that the applicant possesses and meets all of the qualifications and requirements for licensure provided by this Chapter save for having successfully passed all steps of the USMLE or all levels of the COMLEX-USA examination (§311.A.5), or completing the postgraduate medical training program required by §311.A.6, and provided further that the applicant has not previously taken and failed to achieve a passing score, as prescribed by §387 of these rules, on the USMLE, FLEX, NBME, COMLEX-USA or NBOME examination, any component thereof, or any written examination administered by the licensing authority of any state.

B. The board may issue a temporary permit to an applicant for licensure by reciprocity (§§351 to 353) who is required by §353 to take the SPEX or a certification or recertification examination, but who has not yet taken SPEX or a certification or recertification examination or whose scores have not yet been reported to the board or the applicant, provided that the applicant possesses and meets all of the qualifications and requirements for licensure provided by this Chapter save for having successfully passed the SPEX or a certification or recertification examination (§353), and provided further that the applicant has registered for the next available administration of the SPEX or a certification or recertification examination and has not previously taken and failed to achieve a passing score on SPEX or any portion of a certification or recertification examination more than three times.

C. A permit issued under this Section shall expire, and thereby become null, void, and to no effect on the date that:

1. the board gives written notice to the permit holder that he has failed to achieve a passing score on the USMLE, COMLEX-USA or SPEX examination for which he was registered;

2. the board gives written notice to the permit holder pursuant to §381.B that it has probable cause to believe that he has engaged or attempted to engage in conduct which subverted or undermined the integrity of the examination process;

3. the permit holder is issued a license pursuant to §413.A or another type of permit as provided by §§397 to 405 of this Chapter; or

4. the holder of a permit issued under §407.B fails to appear for and take the SPEX or the certification or recertification examination for which he is registered or the earlier of the date on which the board or the permit holder receives notice from the entity or specialty board administering such examination that he has failed to achieve a passing score on any portion of the certification or recertification examination for which he was registered.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270, R.S. 37:1272, R.S. 37:1273 and R.S. 37:1275.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 10:914 (November 1984), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 16:521 (June 1990), LR 22:212 (March 1996), withdrawal LR 22:280 (April 1996), amended LR 27:846 (June 2001).

§411. Graduate Education Temporary Permit

A. In General. The board may issue a Graduate Education Temporary Permit (GETP) to an international medical graduate (a graduate of a medical school located outside of the United States, Canada, and Puerto Rico) for the purpose of enrolling and participating in an accredited program of postgraduate medical education (residency or fellowship) at a Louisiana medical school, college, or other accredited medical institution, upon documentation of the qualifications, satisfaction of the procedural requirements and compliance with the conditions and limitations prescribed by this Section.

B. Qualifications for Permit. To be eligible for a GETP, an international medical graduate (IMG) shall:

1. be at least 21 years of age;

2. be a citizen of the United States or possess valid and current legal authority to reside and work in the United States duly issued by the commissioner of the INS of the United States pursuant to the Immigration and Nationality Act and the commissioner's regulation thereunder, as evidenced by an exchange visitor (J-1), temporary worker (H-1B) or immigrant visa, or INS issued or approved work permit or by a pending application for such visa or permit;

3. be of good moral character, as defined by §303.A;

4. possess a doctor of medicine or equivalent degree duly issued and conferred by a medical school or college listed, at the time the degree was awarded, in the then-current edition of the *World Directory of Medical Schools* published by the World Health Organization; and

5. possess the standard certificate of the (ECFMG), provided it was issued on the basis of examination taken in accordance with the standards, restrictions and limitations prescribed by §387 of these rules; and

6. have received a written commitment from an accredited Louisiana medical school, college, or other accredited medical institution formally appointing the IMG to a postgraduate medical education training program which is conducted by such medical school, college, or other medical institution and which is fully accredited by (and not on probational status with) the ACGME, subject only to the board's issuance of a GETP to the applicant; and agreeing to furnish to the board the periodic reports required by §411.F.2-3; and

7. satisfy the applicable fees prescribed in these rules and the Medical Practice Act.

C. Procedural Requirements. An application form will be supplied by the board only after the qualifications prescribed by §411.B.6 have been documented by an original letter, signed by the director of the postgraduate training program of the Louisiana medical school, college, or other accredited medical institution at which the IMG will train, certifying that the qualifications and conditions of such Subsection have been met.

D. Restrictions and Limitations. An IMG holding a GETP issued by the board shall not participate in postgraduate medical training or engage in the practice of medicine within the state of Louisiana other than as follows.

1. During the 12 months following the effective date of an initial GETP, an IMG may participate in postgraduate medical training and engage in the practice of medicine solely at the principal location of the sponsoring medical school, college, or medical institution and shall not participate in clinical rotations to or serve at institutions at any other location.

2. An IMG who is enrolled and participating in a first postgraduate year (PGY-1) medical education training program shall not assume independent responsibility for patient care or otherwise engage in the practice of medicine.

3. An IMG shall not engage in the practice of medicine, or participate in any postgraduate medical training program within the state of Louisiana, other than within the scope of the postgraduate medical training program for which such person has been approved by the board, nor other than at the medical school, college, or other accredited medical institution from which such IMG holds his or her appointment, or at medical facilities affiliated with such program.

4. An IMG holding a GETP shall be subject to supervision by the supervising physicians designated by the medical school, college, or medical institution at which the postgraduate medical education training program is conducted.

E. Term of Permit. Each GETP issued under this Section shall expire 12 months from the date on which it is issued. A GETP shall also expire, and automatically become null and void, effective on any date that the permittee's appointment to the designated postgraduate training program is terminated.

F. Renewal, Reissuance. A GETP which has expired may be renewed or reissued by the board for one or more successive 12-month period, provided that:

1. not later than 24 months following the effective date of an initial GETP, permit holder has taken and successfully passed Step 3 of the United States Medical Licensing Examination (USMLE) or had previously passed both components of the FLEX;

2. not less than five months nor more than seven months following the effective date of an initial GETP, the director of the postgraduate program in which the permit holder is enrolled has submitted to the board written reports on the IMG's performance in such program, certifying to the board that the permit holder has performed successfully and competently in such postgraduate program;

3. not less than two months prior to the annual expiration of a GETP, the director of the postgraduate program in which the permit holder is enrolled has submitted to the board written reports on the IMG's performance in such program, certifying to the board that:

a. the permit holder has performed successfully and competently in such postgraduate program;

b. the medical school, college, or other medical institution will renew the IMG's appointment for an additional year; and

c. no grounds are known which would provide cause for the board to refuse to renew or to revoke the permit holder's GETP pursuant to §411.H hereof.

G. Causes for Refusal to Issue or Renew. Notwithstanding an IMG's eligibility for a GETP, or for renewal of a GETP, under the standards and criteria set forth in this Section, the board may nonetheless deny issuance or renewal of a GETP for any of the causes for which it may deny licensure under R.S. 37:1285.A or for which it may revoke a GETP pursuant to §411.H.

H. Causes for Revocation. Upon prior notice and an opportunity to be heard in accordance with the Louisiana Administrative Procedure Act, a GETP may be revoked by the board:

1. for any of the causes specified by R.S. 37:1285.A;

2. upon a finding by the board that the permittee has failed to maintain, or did not possess at the time of application, any of the qualifications requisite to eligibility for a GETP as prescribed by this Section; or

3. upon a finding by the board that the permittee has exceeded the scope of authority accorded by the GETP or otherwise violated any of the conditions, restrictions, and limitations prescribed by §411.D hereof.

I. Effect of Revocation. An IMG whose GETP has been revoked by the board pursuant to §411.H shall not thereafter be eligible for a GETP or license to practice medicine in the state of Louisiana.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(A), R.S. 37:1270(B)(6), R.S. 37:1275, R.S. 37:1277 and R.S. 37:1281.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 21:467 (May 1995), amended LR 27:846 (June 2001).

Subchapter I. License Issuance, Termination, Renewal and Reinstatement

§413. Issuance of License

A. If the qualifications, requirements, and procedures prescribed or incorporated by §311 and §313 or §323 and §325, or §353 are met to the satisfaction of the board, the board shall issue to the applicant a license to engage in the practice of medicine in the state of Louisiana.

B. A license issued under §311 of this Chapter shall be issued by the board within 30 days following the reporting of the applicant's USMLE passing scores to the board or in the case of a doctor of osteopathic medicine or doctor of osteopathy who has successfully passed COMLEX-USA or its predecessor, the NBOME, or any combination thereof, but not USMLE, within 30 days following the receipt of satisfactory documentation of the completion of a postgraduate medical training program required under §311A.6. A license issued under any other Section of this Chapter shall be issued by the board within 15 days following the meeting of the board next following the date on which the applicant's application, evidencing all requisite qualifications, is completed in every respect.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270 and R.S. 37:1274.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 10:914 (November 1984), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 16:523 (June 1990), LR 22:212 (March 1996), withdrawal LR 22:280 (April 1996), amended LR 27:848 (June 2001).

§415. Expiration of Licenses and Permits

A. Every license or permit issued by the board under this Chapter, the expiration date of which is not stated thereon or provided by these rules, shall annually expire and thereby become null, void, and to no effect the following year on the first day of the month in which the licensee was born.

B. A license issued to a doctor of osteopathic medicine or doctor of osteopathy pursuant to successful passage of COMLEX-USA or its predecessor, the NBOME, or any combination thereof, and the completion of the postgraduate medical training program under §311.A.5 and 6 shall not be renewed after the expiration of one year from the date of issuance unless on or before the renewal date the licensee:

1. provides evidence to the board that he has obtained certification in a specialty by a specialty board recognized by the ABMS; or

2. in those specialties for which certification is not possible within a year following completion of a training program, provides satisfactory evidence to the board that he is progressing toward certification in a timely fashion and has not failed any portion of the certification or recertification examination more than three times, in which case the license shall be renewed.

C. A license issued pursuant to the waiver of qualifications provided by §315 of this Chapter shall become null and void on the earlier of the date prescribed by §415.A or the date on which the physician's appointment as a professor to the medical school or college, upon which the waiver was granted by the board, is terminated.

D. The timely submission of a properly completed application for renewal of a license, but not a permit, as provided by §417 of this Chapter, shall operate to continue the expiring licensing in full force and effect pending issuance of the renewal license.

E. Permits are not subject to renewal, except as expressly provided in these rules.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270 and R.S. 37:1280.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 10:914 (November 1984), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 16:523 (June 1990), LR 22:212 (March 1996), withdrawal LR 22:280 (April 1996), amended LR 24:1500 (August 1998), LR 27:848 (June 2001).

§417. Renewal of License

A. Every license issued by the board under this Chapter shall be renewed annually on or before the first day of the month in which the licensee was born, by submitting to the board a properly completed application for renewal, upon forms supplied by the board, together with the renewal fees prescribed in these rules and the Medical Practice Act, and documentation of satisfaction of the continuing medical education requirements prescribed by Subchapter K of these rules.

B. An application for renewal of license form shall be mailed by the board to each person holding a license issued under this Chapter at least 30 days prior to the expiration of the license each year. Such form shall be mailed to the most recent address of each licensee as reflected in the official records of the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270, 37:1270(A)(8), R.S., 37:1280 and R.S. 37:1281.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 10:914 (November 1984), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 16:523 (June 1990), LR 24:1500 (August 1998), LR 26:695 (April 2000), LR 27:848 (June 2001).

§418. Reduced Renewal Fees for Certain Physicians

A. The fee otherwise required for annual renewal of licensure will be reduced by one-half in favor of a physician who holds an unrestricted license to practice medicine issued by the board and who has, prior to the first day of the year for which such renewal will be effective:

1. attained the age of 70 years;

2. voluntarily surrendered to the issuing authorities his or her state license and federal registration to prescribe, dispense, or administer controlled substances; and

3. made application to the board for such reduced licensure renewal fee, upon a form supplied by the board, verifying the conditions requisite to such reduced fee and consenting to revocation of any license renewed pursuant to this Section upon a finding by the board that the licensee, following issuance of licensure renewal pursuant to this Section, continued to hold, obtained, or sought to obtain state licensure or federal registration to prescribe, dispense, or administer controlled substances.

B. The fee otherwise required for annual renewal of licensure will be reduced by one-half in favor of a physician who holds an unrestricted license to practice medicine issued by the board and who has, prior to the first day of the year for which such renewal will be effective:

1. ceased to engage in the practice of medicine in any form in this state as a consequence of physical or mental disability;

2. voluntarily surrendered to the issuing authorities his or her state license and federal registration to prescribe, dispense, or administer controlled substances; and

3. made application to the board for such reduced licensure renewal fee, upon a form supplied by the board, verifying the conditions requisite to such reduced fee, including independent physician verification of the applicant's physical or mental disability, and consenting to revocation of any license renewed pursuant to this Section upon a finding by the board that the licensee, following issuance of licensure renewal pursuant to this Section, engaged or sought to engage in any manner in the practice of medicine in this state or continued to hold, obtained, or sought to obtain state licensure or federal registration to prescribe, dispense, or administer controlled substances.

C. A physician whose medical license is renewed pursuant to this Section shall not thereafter engage or seek to engage in the active practice of medicine in this state or to prescribe, dispense, or administer controlled substances or other prescription medications except upon prior application to and approval by the board, which, in its discretion, as a condition to reinstatement of full licensure, may require that:

1. the physician take and successfully pass all or a designated portion of the USMLE or SPEX examination; and/or

2. the physician provide medical documentation satisfactory to the board that the physician is then physically and mentally capable of practicing medicine with reasonable skill and safety to patients.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270, R.S. 37:1280 and R.S. 37:1281.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 16:523 (June 1990), LR 22:213 (March 1996), withdrawal LR 22:280 (April 1996), repromulgated LR 27:848 (June 2001).

§419. Reinstatement of Expired License

A. A license which has expired may be reinstated by the board subject to the conditions and procedures hereinafter provided, provided that application for reinstatement is made within four years of the date of expiration. A physician whose license has lapsed and expired for a period in excess of four years or who is otherwise ineligible for reinstatement under this Section may apply to the board for an initial original or reciprocal license pursuant to the applicable rules of this Chapter.

B. An applicant seeking reinstatement more than one year from the date on which his license expired shall demonstrate, as a condition of reinstatement, satisfaction of the continuing medical education requirements of .433-449 of Subchapter K of these rules for each year since the date of the expiration of licensure. As additional conditions of reinstatement the board may require:

1. that the applicant complete a statistical affidavit, upon a form supplied by the board, and provide the board with a recent photograph;

2. that the applicant possess a current, unrestricted license issued by another state; and/or

3. if the applicant does not at the time of the application for reinstatement possess a current, unrestricted license issued by another state, that the applicant take and successfully pass:

a. all or a designated portion of the USMLE or SPEX examination; or

b. a written certification or recertification examination by a specialty board recognized by the ABMS.

C. An applicant whose medical license has been revoked, suspended, or placed on probation by the licensing authority of another state or who has voluntarily or involuntarily surrendered his medical license in consideration of the dismissal or discontinuance of pending or threatened administrative or criminal charges, following the date on which his Louisiana medical license expired, shall be deemed ineligible for reinstatement of licensure.

D. An application for reinstatement of licensure meeting the requirements and conditions of this Section may nonetheless be denied for any of the causes for which an application for original licensure may be refused by the board as specified in R.S. 37:1285.

E. An application for reinstatement shall be made upon forms supplied by the board and accompanied by two letters of character recommendation from reputable physicians of the former licensee's last professional location, together with the applicable renewal fees prescribed in these rules and the Medical Practice Act, plus a penalty computed as follows.

1. If the application for reinstatement is made less than two years from the date of license expiration, the penalty shall be equal to the renewal fee.

2. If the application for reinstatement is made more than two years but less than three years from the date of license expiration, the penalty shall be equal to twice the renewal fee.

3. If the application for reinstatement is made more than three years from the date of license expiration, the penalty shall be equal to three times the renewal fee.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 10:914 (November 1984), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 16:524 (June 1990), LR 22:213 (March 1996), withdrawal LR 22:280 (April 1996), amended LR 24:1500 (August 1998), LR 26:695 (April 2000), LR 27:849 (June 2001).

Subchapter J. Postgraduate Year One (Internship) Registration

§425. Necessity for Registration

A. As used in this Section, *postgraduate year one (PGY-1)* or *internship* means the first year of postgraduate training following graduation from a medical school or college (whether allopathic or osteopathic) approved by the board. For purposes of this Section PGY-1 includes only the first year of any such training following graduation from a medical school or college and does not include training which may be designated PGY-1 level subsequent to prior training at such level in any specialty, field, or program.

B. No person who does not possess a license or permit issued under this Chapter shall enroll or participate in a PGY-1 medical educational program, or internship, unless he is duly registered with the board pursuant to this Subchapter.

C. Notwithstanding registration under this Subchapter, no person who does not possess a license or permit issued under this Chapter shall enroll or participate in a first year postgraduate medical educational program, an internship, or any other program howsoever designated or whenever taken,

which permits or requires such persons to exercise independent medical judgment, assume independent responsibility for patient care, or otherwise to engage in the practice of medicine.

D. Upon a finding that a person or registrant has violated the proscriptions of this Section, the board may:

1. suspend or revoke such person's registration under this Subchapter or impose probationary conditions thereon;

2. consider and declare such person or registrant ineligible for a medical license or permit under this Chapter; and/or

3. cause the institution of judicial proceedings against such person for injunctive relief, costs, and attorneys fees, pursuant to R.S. 37:1286.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 10:914 (November 1984), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 16:524 (June 1990), LR 22:214 (March 1996), withdrawal LR 22:280 (April 1996), amended LR 27:849 (June 2001).

§427. Qualifications for Registration

A. To be eligible for registration under this Subchapter, an applicant shall possess all of the substantive qualifications for licensure specified by §311.A.1-4 and shall be a graduate of an approved American or Canadian medical school or college (whether allopathic or osteopathic).

B. The burden of satisfying the board as to the qualifications and eligibility of the applicant for registration shall be upon the applicant. An applicant shall not be deemed to possess such qualifications unless the applicant demonstrates and evidences such qualifications in the manner prescribed by, and to the satisfaction of, the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 10:915 (November 1984), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 16:524 (June 1990), LR 27:850 (June 2001).

§429. Procedural Requirements

A. In addition to the substantive qualifications specified in §427, to be eligible for registration under this Subchapter, an applicant shall:

1. submit to the board a completed application, upon forms supplied by the board, subscribed by the applicant and by the administrator or chief executive officer of the hospital or medical institution in which the postgraduate program is to be conducted, accompanied by a recent photograph of the applicant;

2. make a personal appearance, by appointment, before a member of the board or its designee, or at the office of the board before its designated officer, and present evidence of the qualifications specified by §427; provided, however, that an applicant who has completed his medical (whether allopathic or osteopathic) education but who does not yet possess a degree as required by §311.A.4 may be deemed eligible for registration upon submission to the board of a letter subscribed by the dean of an approved medical school or college (whether allopathic or osteopathic), certifying that the applicant has completed his academic and medical education at such school or college, that the applicant is a candidate for the degree of doctor of medicine or doctor of osteopathic medicine or doctor of osteopathy at the next scheduled convocation of such school or college, and specifying the date on which such degree will be awarded; and

3. pay the applicable fees, as provided in these rules and the Medical Practice Act.

B. All documents required to be submitted to the board must be the original thereof. For good cause shown, the board may waive or modify this requirement.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 10:915 (November 1984), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 16:525 (June 1990), LR 27:850 (June 2001).

§431. Issuance and Term of Registration

A. If the qualifications, requirements, and procedures prescribed or incorporated by §§427 and 429 are met to the satisfaction of the board, the board shall issue a certificate to the applicant evidencing his registration under this Subchapter for enrollment and participation in a first year postgraduate (internship) program in the state of Louisiana.

B. Registration issued under this Subchapter shall be effective on and as of the date on which an applicant's postgraduate medical education program is to commence.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 10:915 (November 1984), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 16:525 (June 1990), LR 22:214 (March 1996), withdrawal LR 22:280 (April 1996), amended LR 27:850 (June 2001).

Subchapter K. Continuing Medical Education

§433. Scope of Subchapter

A. The rules of this Subchapter provide standards for the continuing medical education ("CME") requisite to the renewal or reinstatement of licensure, as provided by §§417 and 419 of these rules and prescribe the procedures applicable to satisfaction and documentation of continuing medical education in connection with applications for renewal or reinstatement of licensure.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270 and 37:1270(A)(8).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 26:695 (April 2000).

§435. Continuing Medical Educational Requirement

A. Subject to the waiver of and exceptions to CME prescribed by §§445 and 447 and the special requirements attendant to initial renewal of licensure specified in §449, every physician seeking the renewal or reinstatement of licensure, to be effective on or after January 1, 2002, shall annually evidence and document, upon forms supplied by the board, the successful completion of not less than 20 hours of board approved CME.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270 and 37:1270(A)(8).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 26:695 (April 2000).

§437. Qualifying Continuing Medical Education Programs

A. Any program, course, seminar or other activity offering Category 1 CME shall be deemed approved for purposes of satisfying the continuing medical education requirements under this Subchapter, if sponsored or offered by:

1. an organization or entity accredited by the Accreditation Council for Continuing Medical Education (ACCME);

2. a member board of the American Board of Medical Specialties;

3. the American Academy of Family Physicians (AAFP);

4. the American College of Obstetricians and Gynecologists (ACOG);

5. the American Osteopathic Association (AOA); or

6. an organization or entity accredited by the Louisiana State Medical Society or any other ACCME recognized state medical society.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270 and 37:1270(A)(8).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 26:695 (April 2000).

§439. Documentation Procedure

A. A form for annual documentation and certification of satisfaction of the continuing medical education requirements prescribed by §§433-449, shall be mailed with each application for renewal or reinstatement of licensure form mailed by the board pursuant to §§417 or 419. Such form shall be completed and delivered to the board with the physician's application.

B. Physicians will not be required to transmit documentation of compliance with continuing medical education requirements for renewal or reinstatement of licensure, unless requested by the board pursuant to §439.E.

C. A physician shall maintain a record or certificate of attendance for at least four years from the date of completion of the continuing medical education activity. Satisfactory evidence shall consist of a certificate or other documentation which shall, at a minimum, contain the:

1. program title;

2. sponsor's name;

3. physician's name;

4. inclusive date or dates and location of the CME event; and

5. documented verification of successful completion of 20 hours of Category 1 CME by stamp, signature, official or other proof acceptable to the board.

D. The board shall select for an audit of continuing medical education activities no fewer than 2 percent of the applicants for renewal or reinstatement each year. In addition, the board has the right to audit any questionable documentation of activities.

E. Verification of continuing medical education satisfying the requirements of this Subchapter shall be submitted by a physician to the board within 30 days of the date of mailing of notification of audit or such longer period as the board my designate in such notification. A physician's failure to notify the board of a change of mailing address will not absolve the licensee from the audit requirement.

F. Any certification of continuing medical education which is not approved by the board pursuant to §437 shall not be considered as qualifying for CME recognition by the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270 and 37:1270(A)(8).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 26:696 (April 2000).

§441. Failure to Satisfy Continuing Medical Education Requirements

A. An applicant for renewal of licensure who fails to evidence satisfaction of the continuing medical education requirements prescribed by these rules shall be given written notice of such failure by the board. Such notice shall be mailed to the most recent address of the licensee as reflected in the official records of the board. The license of the applicant shall remain in full force and effect for a period of 90 days following the mailing of such notice, following which such license shall be deemed expired, unrenewed and subject to revocation without further notice, unless the applicant shall have, within such 90 days, furnished the board satisfactory evidence by affidavit that:

1. the applicant has satisfied the applicable continuing medical education requirements;

2. the applicant's failure to satisfy the continuing medical education requirements was occasioned by disability, illness or other good cause as may be determined by the board pursuant to §445; or

3. the applicant is exempt from such requirements pursuant to §447.

B. The license of a physician which has expired for nonrenewal or been revoked for failure to satisfy the CME requirements of §435 of these rules, may be reinstated pursuant to §419 upon written application to the board, accompanied by payment of the reinstatement fee required by §419, in addition to all other applicable fees and costs, together with documentation and certification that the applicant has, for each year since the date on which the applicant's license was last issued or renewed, completed an aggregate of 20 hours of board approved CME.

C. The license of a physician which has expired, has not been renewed or been revoked for failure to meet the requirements of §449, or one which has expired, has not been renewed or revoked on more than one occasion for failure to satisfy the CME requirements of §435 of these rules shall be deemed in violation of R.S. 37:1285.A(30), providing cause for the board to suspend or revoke, refuse to issue, or impose probationary or other restrictions on any license held or applied for by a physician to practice medicine in the state of Louisiana culpable of such violation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270, 37:1270(A)(8) and R.S. 37:1280.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 26:696 (April 2000).

§443. Falsification of Continuing Medical Education

A. Any licensee or applicant who falsely certifies attendance at and/or completion of the required continuing medical education requirements of §§433-449 shall be deemed in violation of R.S.37:1285.A(3), (4), (13) and/or (30), providing cause for the board to suspend or revoke, refuse to issue, or impose probationary or other restrictions on any license held or applied for by a physician to practice medicine in the state of Louisiana culpable of such violation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270 and 37:1270(A)(8).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 26:696 (April 2000).

§445. Waiver of Requirements

A. The board may, in its discretion, waive all or part of the CME required by these rules in favor of a physician who makes written request to the board and evidences to its satisfaction a permanent physical disability, illness, financial hardship or other similar extenuating circumstances precluding the individual's satisfaction of CME requirements.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270 and 37:1270(A)(8).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 26:696 (April 2000).

§447. Exceptions to the Continuing Medical Education Requirements

A. Except as provided in §449, the CME requirements prescribed by this Subchapter prerequisite to renewal or reinstatement of licensure shall not be applicable to a physician:

1. engaged in military service longer than one year's duration outside of Louisiana;

2. who has held an initial Louisiana license on the basis of examination for less than one year;

3. who has within the past year been certified or recertified by a member board of the American Board of Medical Specialties;

4. who is in a residency training program approved by the board; or

5. who is a retired physician in accordance with §418 of these rules.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270 and 37:1270(A)(8).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 26:697 (April 2000).

§449. CME Requirement for Initial Renewal of License

A. Effective on and after January 1, 2002, every physician seeking the initial renewal of medical licensure, whether such license was originally issued by the board on the basis of examination, reciprocity or reinstatement shall, as part of the continuing medical education required by this Subchapter as a condition prerequisite to licensure renewal, evidence and document upon forms supplied by the board attendance at an orientation program sponsored and/or approved by the board.

B. The program required pursuant to §449.A shall be conducted at such locations, on such dates and at such times as may be designated by the board, shall consist of not less than two hours in duration and involve such content, topic and structure as the board may from time to time deem appropriate.

C. Notification of the dates, times and locations at which such programs will be offered, as well as the enrollment procedure, shall be mailed to the most recent address of each applicant subject to the requirements of §449.A as reflected in the official records of the board. A physician's failure to notify the board of a change of mailing address will not absolve the applicant of the requirement to attend a board sponsored/approved orientation program as a condition of approval of an initial request for licensure renewal.

D. A physician required to attend an orientation program pursuant to §449.A shall, for each hour of attendance as may be required by the board, be granted an hour-for-hour credit towards the annual CME requirement specified by §435.

E. The requirements prescribed by §449.A shall not be applicable to a physician who at the time of the initial renewal of medical licensure resides and practices medicine in another state; provided, however, that such physician shall notify the board in the event that he should return to Louisiana for the purpose of residing or practicing medicine in this state and shall satisfy such requirements prior to the next renewal of licensure or as otherwise directed by the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270, 37:1270(A)(8).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 26:697 (April 2000), amended LR 27:850 (June 2001).

Chapter 13. Podiatrists

Subchapter A. General Provisions

§1301. Scope of Chapter

A. The rules of this Chapter govern the licensing of podiatrists to engage in the practice of podiatry in the state of Louisiana.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270, R.S. 37:612, R.S. 37:613 and R.S. 37:616.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 29:1088 (July 2003).

§1303. Definitions

A. As used in this Chapter the following terms shall have the meanings specified.

Applicant a person who has applied to the board for a license or permit to engage in the practice of podiatry in the state of Louisiana or for a registration to engage in the first year of continuing postgraduate podiatric education.

Application a written request directed to and received by the board, upon forms supplied by the board, for a license or permit to practice podiatry in the state of Louisiana or for a registration to engage in the first year of continuing postgraduate podiatric education, together with all information, certificates, documents, and other materials required by the board to be submitted with such forms.

Good Moral Character as applied to an applicant, means that:

a. the applicant has not, prior to or during the pendency of an application to the board, been guilty of any act, omission, condition, or circumstance which would provide legal cause under R.S. 37:624 for the suspension or revocation of podiatry licensure;

b. the applicant has not, prior to or in connection with his application, made any representation to the board, knowingly or unknowingly, which is in fact false or misleading as to a material fact or omits to state any fact or matter that is material to the application; or

c. the applicant has not made any representation or failed to make a representation or engaged in any act or omission which is false, deceptive, fraudulent or misleading in achieving or obtaining any of the qualifications for a license or permit required by this Chapter.

License the lawful authority of a podiatrist to engage in the practice of podiatry in the state of Louisiana, as evidenced by a certificate duly issued by and under the official seal of the board.

Permit the lawful authority of a podiatrist to engage in the practice of podiatry in the state of Louisiana for a designated, temporary period of time subject to restrictions and conditions specified by the board, as evidenced by a certificate duly issued by and under the official seal of the board. A permit is of determinate, limited duration and implies no right or entitlement to a license or to renewal of the permit.

Podiatrist a person possessing a doctor of podiatric medicine degree or an equivalent degree duly awarded by a school or college of podiatry approved by the board.

Podiatry Practice Act or *the Act* R.S. 37:611-628, as hereafter amended or supplemented.

Postgraduate Year One (Internship) Registration the lawful authority of a podiatrist to engage in the first year of continuing postgraduate podiatric training in the state of Louisiana at a podiatric medical education or internship program approved by the board, as evidenced by a certificate of registration duly issued by and under the official seal of the board.

State any state of the United States, the District of Columbia and Puerto Rico.

B. Masculine terms wheresoever used in this Chapter shall also be deemed to include the feminine.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270, R.S. 37:612, R.S. 37:613, R.S. 37:616 and R.S. 37:618.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 29:1088 (July 2003).

Subchapter B. Requirements and Qualifications for Licensure

§1305. Qualifications for License

A. To be eligible for a license, an applicant shall:

1. be at least 21 years of age;

2. be of good moral character as defined by §1303.A;

3. be a citizen of the United States or possess valid and current legal authority to reside and work in the United States duly issued by the commissioner of the Immigration and Naturalization Service of the United States under and pursuant to the Immigration and Nationality Act (66 Stat. 163) and the commissioner's regulations thereunder (8 CFR);

4. possess a doctor of podiatric medicine or equivalent degree duly issued and conferred by a podiatric school or college approved by the board; and

5. with respect to applications for licensure first received by the board on and after January 1, 2005, have completed at least one year of postgraduate podiatric training in an internship or equivalent program accredited by the Council on Podiatric Medical Education of the American Podiatric Medical Association or its successor association, and approved by the board.

B. The burden of satisfying the board as to the qualifications and eligibility of the applicant for licensure shall be upon the applicant. An applicant shall not be deemed to possess such qualifications unless the applicant demonstrates and evidences such qualifications in the manner prescribed by, and to the satisfaction of, the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270, R.S. 37:612, R.S. 37:613 and R.S. 37:616.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 29:1089 (July 2003).

§1307. Qualifications for Licensure [Reserved]

§1309. Procedural Requirements [Reserved]

§1311. Waiver of Examination Requirements [Reserved]

Subchapter C. Board Approval of Podiatry Schools and Colleges

§1313. Scope of Subchapter [Reserved]

§1315. Applicability of Approval [Reserved]

§1317. List of Approved Schools [Reserved]

Subchapter D. Licensure by Reciprocity

§1319. Definitions [Reserved]

§1321. Qualifications for Podiatry Licensure by Reciprocity [Reserved]

Subchapter E. Application

§1323. Purpose and Scope [Reserved]

§1325. Application Procedure [Reserved]

§1327. Effect of Application [Reserved]

Subchapter F. Examination

§1329. Designation of Examinations [Reserved]

§1331. Eligibility for Examination [Reserved]

§1333. Observance of Examination [Reserved]

§1335. Subversion of Examination Process [Reserved]

§1337. Finding of Subversion [Reserved]

§1339. Sanctions for Subversion of Examination [Reserved]

§1341. Passing Scores [Reserved]

§1343. Restriction, Limitations on Examinations [Reserved]

§1345. Examinations in or for Another State [Reserved]

§1347. Lost, Stolen or Destroyed Examinations [Reserved]

Subchapter G. Temporary License

§1349. Temporary License in General [Reserved]

§1351. License Pending Examination [Reserved]

§1353. Provisional Temporary Permit Pending Application for Visa [Reserved]

§1355. License Pending Reexamination [Reserved]

Subchapter H. Licensure Issuance, Termination, Renewal, Reinstatement

§1357. Issuance of License [Reserved]

§1359. Expiration of License or Permit

A. Every license or permit issued by the board under this Chapter, the expiration date of which is not stated thereon or provided by these rules, shall expire, and thereby become null, void and to no effect, on the last day of the year in which such license or permit was issued.

B. Notwithstanding the provisions of §1359.A, every license, but not a permit, issued by the board under this Chapter to be effective on or after January 1, 1999, and each year thereafter, shall expire, and thereby become null, void and to no effect the following year, on the first day of the month in which the licensee was born.

C. The timely submission of a properly completed application for renewal of a license, as provided in §1361, shall operate to continue the expiring licensing in full force and effect pending issuance of the renewal license.

D. Permits are not subject to renewal, except as expressly provided in these rules.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270 and R.S. 37:621.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 24:1501 (August 1998).

§1361. Renewal of License

A. Every license or permit issued by the board shall be renewed annually on or before the first day of the month in which the licensee was born by submitting to the board a properly completed application for renewal, upon forms supplied by the board, together with the renewal fee prescribed by the board and documentation of satisfaction of the continuing medical education requirement prescribed by Subchapter J of these rules.

B. An application for renewal of license form shall be mailed by the board to each person holding a license issued under this Chapter at least 30 days prior to the expiration of the license each year. Such form shall be mailed to the most recent address of each licensee as reflected in the official records of the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270, 37:1270(A)(8) and 37:621.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 24:1501 (August 1998), amended LR 29:1089 (July 2003).

§1363. Reinstatement of Expired License

A. A license which has expired may be reinstated by the board subject to the conditions and procedures hereinafter set forth, provided that application for reinstatement is made within four years of the date of expiration. A podiatrist whose license has lapsed and expired for a period in excess of four years or who is otherwise ineligible for reinstatement under this Section may apply to the board for an initial original or reciprocal license pursuant to these rules and/or the Podiatry Practice Act.

B. An applicant seeking reinstatement more than one year from the date on which his license expired shall demonstrate, as a condition of reinstatement, satisfaction of the continuing medical education requirement of §1373 of Subchapter J of these rules for each year since the date of the expiration of licensure. As additional conditions of reinstatement the board may require:

1. that the applicant complete a statistical affidavit upon a form supplied by the board and provide a recent photograph;

2. that the applicant possess a current, unrestricted license to practice podiatry issued by another state; and/or

3. if the applicant does not at the time of the application for reinstatement possess a current, unrestricted license to practice podiatry issued by another state, that the applicant take and successfully pass:

a. all or a designated portion of the examination specified by R.S. 37:613; or

b. a written certification or recertification examination approved, offered or sponsored by the American Podiatric Medical Association or its successor association and acceptable to the board.

C. An applicant whose license to practice podiatry has been revoked, suspended or placed on probation by the licensing authority of another state or who has voluntarily or involuntarily surrendered his license to practice podiatry in consideration of the dismissal or discontinuance of pending or threatened administrative or criminal charges following the date on which his license to practice podiatry in Louisiana expired shall be deemed ineligible for reinstatement of licensure.

D. An application for reinstatement of licensure meeting the requirements and conditions of this Section may nonetheless be denied for any of the causes for which an application for original licensure may be refused by the board as specified in R.S. 37:624.

E. An application for reinstatement shall be made upon forms supplied by the board and accompanied by two letters of character recommendation from reputable podiatrists of the former licensee's last professional location, together with the applicable fees and costs prescribed by the board, plus a penalty computed as follows.

1. If the application for reinstatement is made less than two years from the date of license expiration, the penalty shall be equal to the renewal fee.

2. If the application for reinstatement is made more than two years but less than three years from the date of license expiration, the penalty shall be equal to twice the renewal fee.

3. If the application for reinstatement is made more than three years from the date of license expiration, the penalty shall be equal to three times the renewal fee.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270, R.S. 37:617, R.S. 37:621, R.S. 37:622 and R.S. 37:628.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 29:1089 (July 2003).

Subchapter I. Podiatry Advisory Committee

§1365. Constitution of Committee [Reserved]

§1367. Composition; Appointment [Reserved]

§1369. Delegated Duties and Responsibilities [Reserved]

Subchapter J. Continuing Medical Education

§1371. Scope of Subchapter

A. The rules of this Subchapter provide standards for the continuing medical education (CME) requisite to the renewal or reinstatement of licensure as provided by §§1361 and 1363 of these rules and prescribe the procedures applicable to satisfaction and documentation of continuing medical education in connection with applications for renewal or reinstatement of licensure.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270, R.S. 37:1270(A)(8), R.S. 37:621 and R.S. 37:628.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 29:1090 (July 2003).

§1373. Continuing Medical Educational Requirement

A. Subject to the waiver of and exceptions to CME provided by §§1383 and 1385, respectively, every podiatrist seeking the renewal or reinstatement of licensure, to be effective on or after January 1, 2005, shall annually evidence and document, upon forms supplied by the board, the successful completion of not less than 20 hours of board approved CME.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270, 37:1270(A)(8), R.S. 37:621 and R.S. 37:628.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 29:1090 (July 2003).

§1375. Qualifying Continuing Medical Education Programs

A. Any program, course, seminar or other activity offering Category 1 CME shall be deemed approved for purposes of satisfying the continuing medical education requirement under this Subchapter, if approved, sponsored or offered by:

1. the American Podiatric Medical Association, or its successor association;

2. an organization or entity accredited by the Accreditation Council for Continuing Medical Education (ACCME);

3. a member board of the American Board of Medical Specialties;

4. an organization or entity accredited by the Louisiana State Medical Society or any other ACCME recognized state medical society.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270, 37:1270(A)(8) and R.S. 37:628.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 29:1090 (July 2003).

§1377. Documentation Procedure

A. A form for annual documentation and certification of satisfaction of the continuing medical education requirement prescribed by §1373 shall be included with each application for renewal or reinstatement of licensure form mailed by the board pursuant to §§1361 or 1363. Such form shall be completed and delivered to the board with the podiatrist's application.

B. Podiatrists will not be required to transmit documentation of compliance with the continuing medical education requirement for renewal or reinstatement of licensure, unless otherwise required by these rules or requested by the board pursuant to §1377.E.

C. A podiatrist shall maintain a record or certificate of attendance for at least four years from the date of completion of the continuing medical education activity. Satisfactory evidence shall consist of a certificate or other documentation which shall, at a minimum, contain the:

1. program title;

2. sponsor's name;

3. podiatrist's name;

4. inclusive date or dates and location of the CME event; and

5. documented verification of successful completion of 20 hours of Category 1 CME by stamp, signature or other official proof acceptable to the board.

D. The board shall select for an audit of continuing medical education activities no fewer than two percent of the applicants for renewal or reinstatement each year. In addition, the board has the right to audit any questionable documentation of activities.

E. Verification of continuing medical education satisfying the requirement of this Subchapter shall be submitted to the board within 30 days of the date of mailing of notification of audit or such longer period as the board my designate in such notification. A podiatrist's failure to notify the board of a change of mailing address will not absolve the licensee from the audit requirement.

F. Any certification of continuing medical education not presumptively approved by the board pursuant to §1375 shall not be considered as qualifying for CME recognition by the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270, 37:1270(A)(8), R.S. 37:621 and R.S. 37:628.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 29:1090 (July 2003).

§1379. Failure to Satisfy Continuing Medical Education Requirement

A. An applicant for renewal of licensure who fails to evidence satisfaction of the continuing professional education requirement prescribed by these rules shall be given written notice of such failure by the board. Such notice shall be mailed to the most recent address of the licensee as reflected in the official records of the board. The license of the applicant shall remain in full force and effect for a period of 90 days following the mailing of such notice, following which such license shall be deemed expired, unrenewed and subject to suspension or revocation without further notice unless the applicant shall have furnished the board, within such 90 days, satisfactory evidence by affidavit, that:

1. the applicant has satisfied the applicable continuing medical education requirement;

2. the applicant's failure to satisfy the continuing medical education requirement was occasioned by disability, illness or other good cause as may be determined by the board pursuant to §1383; or

3. the applicant is exempt from such requirement pursuant to §1385.

B. The license of a podiatrist which has expired for nonrenewal or has been suspended or revoked for failure to satisfy the CME requirement of these rules may be reinstated pursuant to §1363 upon written application to the board, accompanied by payment of the application fee prescribed by §1363, in addition to all other applicable fees and costs, together with documentation and certification that the applicant has, for each year since the date on which the applicant's cense was last issued or renewed, completed an aggregate of 20 hours of board approved CME.

C. The license of a podiatrist which has been suspended or revoked on more than one occasion for failure to satisfy the CME requirement of these rules shall be deemed in violation of R.S. 37:624(15), providing cause for the board to suspend or revoke, refuse to issue, or impose probationary or other restrictions on any license or permit held or applied for by a podiatrist to practice podiatry in the state of Louisiana culpable of such violation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270, 37:1270(A)(8), R.S. 37:621, R.S. 37:624 and R.S. 37:628.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 29:1090 (July 2003).

§1381. Falsification of Continuing Medical Education

A. Any licensee or applicant who falsely certifies attendance at and/or completion of the required continuing medical education requirement of §1373 shall be deemed in violation of R.S.37:624(2) and/or (15), providing cause for the board to suspend or revoke, refuse to issue, or impose probationary or other restrictions on any license or permit held or applied for by a podiatrist to practice podiatry in the state of Louisiana culpable of such violation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270, 37:1270(A)(8), R.S. 37:624 and R.S. 37:628.
HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 29:1091 (July 2003).

§1383. Waiver of Requirement

A. The board may, in its discretion, waive all or part of the CME required by these rules in favor of a podiatrist who makes written request to the board and evidences to its satisfaction a permanent physical disability, illness, financial hardship or other similar extenuating circumstances precluding the individual's satisfaction of the CME requirement.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270, 37:1270(A)(8) and R.S. 37:628.
HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 29:1091 (July 2003).

§1385. Exceptions to the Continuing Medical Education Requirement

A. The CME requirement prescribed by this Subchapter prerequisite to renewal or reinstatement of licensure shall not be applicable to a podiatrist:

1. engaged in military service longer than one year's duration outside of Louisiana;

2. who has held an initial Louisiana license on the basis of examination for less than one year; or

3. who is in a postgraduate year one podiatric training program approved by the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270, 37:1270(A)(8) and R.S. 37:628.
HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 29:1091 (July 2003).

Subchapter K. Postgraduate Year One (Internship) Registration

§1391. Necessity for Registration

A. As used in this Section, *postgraduate year one (PGY-1)* or *internship* means the first year of postgraduate podiatric training, following graduation from a school or college of podiatry, that is approved by the Council of Podiatric Medical Education of the American Podiatric Medical Association, or its successor, and the board. For purposes of this Section PGY-1 includes only the first year of any such training following graduation from a podiatry school or college and does not include training which may be designated PGY-1 level subsequent to prior training at such level in any specialty, field, or program.

B. No person who does not possess a license or permit issued under this Chapter shall enroll or participate in a PGY-1 podiatric educational program, or internship, unless he is duly registered with the board pursuant to this Subchapter.

C. Notwithstanding registration under this Subchapter, no person who does not possess a license or permit issued under this Chapter shall enroll or participate in a first year postgraduate podiatric educational program, an internship, or any other program howsoever designated or whenever taken, which permits or requires such persons to exercise independent judgment, assume independent responsibility for patient care or otherwise to engage in the practice of podiatry.

D. Upon a finding that a person or registrant has violated the proscriptions of this Section, the board may:

1. suspend or revoke such person's registration under this Subchapter or impose probationary conditions thereon;

2. consider and declare such person or registrant ineligible for a podiatry license or permit under this Chapter; and/or

3. cause the institution of judicial proceedings against such person for injunctive relief pursuant to R.S. 37:625.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270 and R.S. 37:613.
HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 29:1091 (July 2003).

§1393. Qualifications for Registration

A. To be eligible for registration under this Subchapter an applicant shall possess all of the substantive qualifications for licensure specified by R.S. 37:613 and §1305 and shall be a graduate of a podiatry school or college approved by the board.

B. The burden of satisfying the board as to the qualifications and eligibility of the applicant for registration shall be upon the applicant. An applicant shall not be deemed to possess such qualifications unless the applicant demonstrates and evidences such qualifications in the manner prescribed by, and to the satisfaction of, the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270 and R.S. 37:613.
HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 29:1092 (July 2003).

§1395. Procedural Requirements

A. In addition to the substantive qualifications specified in §1393, to be eligible for registration under this Subchapter an applicant shall:

1. submit to the board a completed application, upon forms supplied by the board, subscribed by the applicant and by the administrator or chief executive officer of the hospital or medical institution in which the PGY-1 program is to be conducted, accompanied by a recent photograph of the applicant;

2. make a personal appearance by appointment before a member of the board or its designee, or at the office of the board before its designated officer, and present evidence of the qualifications specified by §1393; provided, however, that an applicant who has completed his podiatric education but who does not yet possess a degree as required by R.S. 37:613(4) may be deemed eligible for registration upon submission to the board of a letter subscribed by the dean of an approved school or college of podiatry, certifying that the applicant has completed his academic and podiatric education at such school or college, that the applicant is a candidate for the degree of doctor of podiatric medicine or its equivalent at the next scheduled convocation of such school or college, and specifying the date on which such degree will be awarded; and

3. pay all applicable fees and costs prescribed by the board.

B. All documents required to be submitted to the board must be the original thereof. For good cause shown, the board may waive or modify this requirement.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270, R.S. 37:613.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 29:1092 (July 2003).

§1397. Issuance and Term of Registration

A. If the qualifications, requirements, and procedures prescribed or incorporated by §§1393 and 1395 are met to the satisfaction of the board, the board shall issue a certificate to the applicant evidencing his registration under this Subchapter for enrollment and participation in a PGY-1 podiatric training program in the state of Louisiana.

B. Registration issued under this Subchapter shall be effective on and as of the date on which an applicant's PGY-1 podiatric training program is to commence.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270, R.S. 37:613.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 29:1092 (July 2003).

Chapter 15. Physician Assistants

§1501. Scope of Chapter

A. These rules govern the licensure of physician assistants in the state of Louisiana.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(B)(6), R.S. 37:1360.23(D) and (F).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 4:109 (April 1978), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 17:1102 (November 1991), LR 22:201 (March 1996), LR 25:27 (January 1999).

§1503. Definitions

A. As used in this Chapter, the following terms shall have the meanings specified.

Advisory Committee the Louisiana State Board of Medical Examiners Physician Assistants Advisory Committee constituted under R.S. 37:1270.1.

Applicant a person on whose behalf the board has received an application for licensure as a physician assistant.

Approved Application all of the information, representations, terms, restrictions, and documents contained in or submitted with an application upon which the board has issued a physician assistant license.

Board the Louisiana State Board of Medical Examiners.

Locum Tenens Physician a qualified physician who will assume the obligations and responsibilities of the supervising physician when the supervising physician is absent or unavailable as a result of illness, medical emergency or other causes.

Physician a person possessing a current license to practice medicine in the state of Louisiana.

Physician Assistant (PA) an individual licensed under the Act and this Chapter. As members of the health care team, physician assistants provide a broad range of medical services that would otherwise be provided by physicians.

Physician Assistant-Certified (PA-C) a physician assistant who is currently certified by the National Commission on Certificate of Physician Assistants (NCCPA) or its successors.

Protocols or Clinical Practice Guidelines a written set of directives or instructions regarding routine medical conditions, to be followed by a physician assistant in patient care activities. All protocols and clinical practice guidelines shall be written by the supervising directing their use. The Advisory Committee shall periodically publish and disseminate to supervising physicians and all physician assistants, model forms and examples of clinical practice guidelines and protocols. A supervising physician who employs clinical practice guidelines or protocols, shall maintain a written copy of such clinical practice guidelines and protocols in each office location that the supervising physician practices. Such written clinical practice guidelines and protocols shall be available for inspection by authorized representatives of the board.

Supervising Group of Physicians or Supervising Group a professional partnership, professional corporation, or other professional, physician-owned entity approved by and registered with the board under this Chapter to supervise one or more physician assistants. For the purposes of this definition the term "physician-owned entity" does not mean the type of entity defined in R.S. 37:1360.22(3).

Supervising Physician a physician approved by and registered with the board under this Chapter to supervise a physician assistant.

Supervision responsible direction and control, with the supervising physician assuming legal liability for the services rendered by the physician assistant in the course and scope of the physician assistant's employment. Such supervision shall not be construed in every case to require the physical presence of the supervising physician. However, the supervising physician and physician assistant must have the capability to be in contact with each other by either telephone or other telecommunications device. Supervision shall exist when the supervising physician responsible for the patient gives informed concurrence of the actions of the physician assistant, whether given prior to or after the action, and when a medical treatment plan or action is made in accordance with written clinical practice guidelines or protocols set forth by the supervising physician.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(B)(6), R.S. 37:1360.23(D) and (F).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 4:109 (April 1978), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 17:1102 (November 1991), LR 22:201 (March 1996), LR 25:27 (January 1999).

§1505. Necessity for License

A. No person may act as or undertake to perform the functions of a physician assistant unless he has in his personal possession a current physician assistant license issued to him under this Chapter.

B. Any person who acts or undertakes to perform the functions of a physician assistant without a current physician assistant license issued under this Chapter shall be deemed to be engaging in the practice of medicine; provided, however, that none of the provisions of this Chapter shall apply to:

1. any person employed by, and acting under the supervision and direction of, any commissioned physician or surgeon of the United States Armed Services, or Public Health Services, practicing in the discharge of his official duties;

2. practitioners of allied health fields, duly licensed, certified, or registered under other laws of this state, when practicing within the scope of such license, certificate or registration;

3. any physician assistant student enrolled in a physician assistant educational program accredited by the Advisory Committee on Allied Health Education and Accreditation or its successor.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(B)(6), R.S. 37:1360.23(D) and (F).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 4:109 (April 1978), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 17:1102 (November 1991), LR 22:201 (March 1996), LR 25:28 (January 1999).

§1507. Qualifications for Licensure

A. To be eligible for licensure under this Chapter, an applicant shall:

1. be at least 20 years of age;

2. be of good moral character;

3. demonstrate his competence to provide patient services under the supervision and direction of a supervising physician by:

a. presenting to the board a valid diploma certifying that the applicant is a graduate of a physician assistant training program accredited by the Committee on Allied Health Education and Accreditation (CAHEA), or its successors, and by presenting or causing to be presented to the board satisfactory evidence that the applicant has successfully passed the national certification examination administered by the National Commission on Certificate of Physician Assistants (NCCPA) or its successors, together with satisfactory documentation of current certification; or

b. presenting to the board a valid, current physician assistant license, certificate or permit issued by any other state of the United States; provided, however, that the board is satisfied that the certificate, license or permit presented was issued upon qualifications and other requirements substantially equivalent to the qualifications and other requirements set forth in this Chapter;

4. certify that he is mentally and physically able to engage in practice as a physician assistant;

5. not, as of the date of application or the date on which it is considered by the board, be subject to discipline, revocation, suspension, or probation of certification or licensure in any jurisdiction for cause resulting from the applicant's practice as a physician assistant; provided, however, that this qualification may be waived by the board in its sole discretion.

B. The burden of satisfying the board as to the eligibility of the applicant for licensure shall be upon the applicant.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(B)(6), R.S. 37:1360.23(D) and (F).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 4:109 (April 1978), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 17:1102 (November 1991), LR 22:201 (March 1996), LR 25:28 (January 1999).

§1508. Qualifications for Registration as Supervising Physician

A. To be eligible for approval and registration under this Chapter, a proposed supervising physician shall, as of the date of the application:

1. hold an unrestricted license to practice medicine in the state of Louisiana; and

2. have been in the active practice of medicine for not less than three years following the date on which the physician was awarded a doctor of medicine or doctor of osteopathy degree.

B. The burden of satisfying the board as to the eligibility of the proposed supervising physician for approval and registration shall be upon the proposed supervising physician.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(b)(6), R.S. 37:1360.23(D) and (F).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 22:202 (March 1996), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 25:29 (January 1999).

§1509. Application for Licensure; Procedure

A. Application for licensure as a physician assistant must be made upon forms supplied by the board and must include:

1. proof, documented in a form satisfactory to the board that the applicant possesses the qualifications set forth in §1507 of this Chapter;

2. an affidavit, notarized and properly executed by the applicant, certifying the truthfulness and authenticity of all information, representations and documents contained in or submitted with the completed application;

3. payment of the applicable fee as provided in Chapter 1 of these rules; and

4. such other information and documentation as the board may require.

B. A personal interview of a physician assistant applicant by a member of the board or its designee may be required by the board, as a condition of licensure, with respect to:

1. an initial application for licensure where discrepancies exist in the application; or

2. an applicant who has been the subject of prior adverse licensure, certification or registration action in any jurisdiction.

C. All documents required to be submitted to the board must be the original or certified copy thereof. For good cause shown, the board may waive or modify this requirement.

D. The board may reject or refuse to consider any application which is not complete in every detail, including submission of every document required by the application form. The board may in its discretion require a more detailed or complete response to any request for information set forth in the application form as a condition to consideration of an application.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270, R.S. 37:1281, R.S. 37:1360.23, R.S. 37:1360.24.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 4:110 (April 1978), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 17:1103 (November 1991), LR 22:202 (March 1996), LR 25:29 (January 1999), LR 30:238 (February 2004).

§1510. Application for Registration as Supervising Physician; Procedure

A. Application for approval and registration as a supervising physician must be made upon forms supplied by the board and must include:

1. a detailed description of the proposed supervising physician's professional background and specialty, if any; the nature and scope of his medical practice; the geographic and demographic characteristics of his medical practice; the address or location of the primary office where the physician assistant is to practice and be supervised;

2. a description of the way in which the physician assistant will be utilized as a physician assistant, and the methods to be used by the proposed supervising physician to insure responsible direction and control of the activities of the physician assistant;

3. a statement that the physician will exercise supervision over the physician assistant in accordance with any rules and regulations adopted by the board and that the physician will retain professional and legal responsibility for the care rendered by the physician assistant;

4. an affidavit, notarized and properly executed by the proposed supervising physician, certifying the truthfulness and authenticity of all information, representations and documents contained in or submitted with the completed application;

5. payment of a one-time fee of $75, of which the sum of $20 will represent a nonrefundable processing fee; and

6. such other information and documentation as the board may require.

B. A physician seeking to supervise a physician assistant shall be required to appear before the board upon his notification to the board of his intention to supervise a physician assistant:

1. upon a first notification to the board of the physician's intention to supervise a physician's assistant if the board finds discrepancies in the physician's application; or

2. if the physician has been the subject of prior adverse licensure, certification or registration action in any jurisdiction.

C. All documents required to be submitted to the board must be the original or certified copy thereof. For good cause shown, the board may waive or modify this requirement.

D. The board may reject or refuse to consider any application which is not complete in every detail, including submission of every document required by the application form. The board may in its discretion require a more detailed or complete response to any request for information set forth in the application form as a condition to consideration of an application.

E. Any physician seeking to supervise a physician assistant as either primary supervising physician or as locum tenens must register with the board as provided herein.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(B)(6), R.S. 37:1360.23(D) and (F).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 22:202 (March 1996), amended LR 25:29 (January 1999).

§1511. Physician Assistant Advisory Committee

A. The advisory committee shall be authorized to advise the board on all matters specifically dealing with licensing or disciplining of physician assistants or the drafting and promulgating of regulations relating to physician assistants. The advisory committee shall also review and make recommendations to the board on applications for licensure as physician assistants. The board shall not act on any matter relating to physician assistants without first consulting with the advisory committee.

B. The advisory committee shall meet not less than twice each calendar year, or more frequently as may be deemed necessary or appropriate by its chairman or a majority of the members of the advisory committee, which meetings shall be at the call of and at such time and place as may be noticed by its chairman.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(B)(6), R.S. 37:1360.23(D) and (F).

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 4:110 (April 1978), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 17:1103 (November 1991), LR 22:203 (March 1996), LR 25:30 (January 1999).

§1513. Issuance of License; Working Permit

A. If the qualifications, requirements and procedures of §§1507 and 1509 are met to the satisfaction of the board, the board shall license the applicant as a physician assistant.

B. The board may grant a working permit (temporary license), valid and effective for one year but renewable for one additional year, to an applicant who otherwise meets the qualifications for licensure, except that the applicant has not yet taken or is awaiting the results of the national certification examination.

C. A working permit shall expire and become null and void on the date on which:

1. the results of the applicant's national certifying examination are available, and the applicant has failed to pass such examination; or

2. the board takes final action on the applicant's application for licensure.

D. Every license or permit issued under this Chapter is expressly subject to the terms, restrictions and limitations set forth in the approved application.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(B)(6), R.S. 37:1360.23(D) and (F).

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 4:110 (April 1978), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 17:1103 (November 1991), LR 22:203 (March 1996), LR 25:30 (January 1999).

§1514. Issuance of Approval as Supervising Physician

A. If all the qualifications, requirements and procedures of §§1508 and 1510 are met to the satisfaction of the board, the board shall approve and register a physician as a supervising physician.

B. Although a physician must notify the board each time the physician intends to undertake the supervision of a physician assistant, registration with the board is only required once. Notification of supervision of a new physician assistant by a registered supervising physician shall be deemed given to the board upon the physician assistant's filing with the board a notice of intent to practice in accordance with §1517 of this Chapter. The board shall maintain a list of physicians who are registered to supervise physician assistants. Each registered physician is responsible for updating the board should any of the information required and submitted in accordance with §§1508 and 1510 change after the physician has become registered.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(B)(6), R.S. 37:1360.23(D), (F).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 22:203 (March 1996), amended LR 25:30 (January 1999).

§1515. Consent to Examination; Waiver of Privileges; Examining Committee of Physicians

A. An applicant or physician assistant shall, by applying for or accepting licensure under this Chapter, be deemed to have given his consent to submit to physical or mental examinations when so directed by the board and to waive all objections as to the disclosure or admissibility of findings, reports, or recommendations pertaining thereto on the grounds of privileged communication or other personal privileges provided by law.

B. The board may appoint or designate an examining committee of physicians, possessing appropriate qualifications, to conduct physical and mental examinations of a physician assistant, to otherwise inquire into the physician assistant's fitness and ability to provide services with reasonable skill and safety to patients, and to submit advisory reports and recommendations to the board, when the board has reasonable cause to believe that the fitness and ability of such physician assistant are affected by mental illness or deficiency or physical illness, including but not limited to deterioration through the aging process or the loss of motor skills, and/or excessive use or abuse of drugs, including alcohol.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(B)(6), R.S. 37:1360.23(D) and (F).

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 4:111 (April 1978), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 17:1104 (November 1991), LR 22:203 (March 1996), LR 25:30 (January 1999).

§1517. Expiration of Licensure; Renewals; Modification; Notification of Intent to Practice

A. Initial licensure shall expire as of the last day of the year in which such license was issued.

B. Every license issued by the board under this Chapter shall be renewed annually on or before the first day of the month in which the licensee was born, by submitting to the board an application for renewal upon forms supplied by the board, together with satisfactory documentation of current

certification by the National Commission on Certificate of Physician Assistants. Each application for renewal shall be accompanied by the applicable fee as provided in Chapter 1 of these rules.

C. A physician assistant licensed in this state, prior to initiating practice, shall submit, on forms approved by the board, notification of such intent to practice. Such notification shall be deemed effective as of the date received by the board, subject to final approval at the next board meeting and shall include:

1. the name, business address, and telephone number of the supervising physician or supervising group of physicians and any designated locum tenens; and

2. the name, business address, and telephone number of the physician assistant.

D. Licensure shall not terminate upon termination of a relationship between a physician assistant and a supervising physician provided that:

1. the physician assistant ceases to practice as a physician assistant until such time as he enters into a supervision relationship with another supervising physician or supervising group of physicians registered with the board; and

2. the physician assistant notifies the board of any changes in or additions to his supervising physicians within 15 days of the date of such change or addition.

E. The board may, in its discretion, at the time of and upon application for renewal of licensure, require a review of the current accuracy of the information provided in the approved application and of the physician assistant's performance thereunder and may modify or restrict any licensure in accordance with the findings of such review.

F. A physician assistant may elect to have his license placed on inactive status by the board by giving notice to the board in writing, on forms prescribed by the board, of his election of inactive status. A physician assistant whose license is on inactive status shall be excused from payment of renewal fees and shall not practice as a physician assistant in the state of Louisiana. Any licensee who engages in practice while his or her license is on inactive status shall be deemed to be engaged in practice without a license and shall be subject to administrative sanction under R.S. 37:1360.34 or to judicial injunction pursuant to R.S. 37:1360.37. A physician assistant on inactive status may be reinstated to active status upon payment of the current renewal fees and satisfaction of other applicable qualifications for renewal prescribed by §1517.B.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270, R.S. 37:1281, R.S. 37:1360.23, R.S. 37:1360.24.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 4:111 (April 1978), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 17:1104 (November 1991), LR 22:203 (March 1996), LR 24:1498 (August 1998), LR 25:31 (January 1999), LR 30:238 (February 2004).

§1519. Transfer of Certification

A. A physician's assistant previously certified by the board whose certification has terminated pursuant to §1517.C hereof by virtue of the cessation or termination of an employment relationship with his or her approved supervising physician may, within six months following such termination of certification, apply to the board for transfer of certification to a new supervising physician pursuant to the provisions of this Section.

B. Application for transfer of certification to a new supervising physician shall:

1. be submitted to the board not more than six months following the termination of certification pursuant to §1517.B.1 and 2 hereof; and

2. include:

a. the information and documentation prescribed by §1509.B.2-5 hereof with respect to the proposed new supervising physician; and

b. a letter from the applicant's current or former supervising physician, if such physician is not deceased at the time of the application, describing and certifying the circumstances under which the physician's assistant's employment relationship was, or is proposed to be, terminated.

C. Each application for transfer of certification shall be accompanied by a fee of $75, of which the sum of $25 will represent a nonrefundable processing fee.

D. Upon submission of a completed application for transfer of certification, together with the documents required thereby, and the payment of the applicable fee, the applicant and proposed new supervision physician shall make a personal appearance before a member of the board or its designee, to be interviewed regarding their qualifications for certification and approval under this Chapter and their understanding of the authority, limitations, obligations, and responsibilities imposed on physician's assistants and supervising physicians bylaws and regulations applicable thereto.

E. If the requirements and procedures of this Section are met to the satisfaction of the board, and the applicant and supervising physician demonstrate that the proposed new supervising physician satisfies the qualifications for approval as a supervising physician prescribed by §1507.B, the board shall approve transfer of the applicant's certification to the proposed new supervising physician.

F. Pending final board approval of an applicant for transfer of certification, an applicant who has successfully completed the requirements and procedures prescribed by §1519.B and D, and whose application and job description is recommended for approval by the member of the board or its designee having interviewed the applicant and proposed new supervising physician, the applicant may be issued a provisional transfer of certification, to be effective until the earlier of the date on which the board takes final action on the application, or 60 days following from the date of issuance of such provisional transfer of certification.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(B)(6) and R.S. 37:1360.24.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 4:111 (April 1978), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 17:1104 (November 1991).

Chapter 19. Occupational Therapists and Occupational Therapy Assistants

Subchapter A. General Provisions

§1901. Scope of Chapter

A. The rules of this Chapter govern the licensing of occupational therapists and occupational therapy assistants to engage in the practice of occupational therapy in the state of Louisiana.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3001-3014 and R.S. 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 12:767 (November 1986).

§1903. Definitions

A. As used in this Chapter the following terms shall have the meanings specified.

Applicant a person who has applied to the board for a license to engage in the practice of occupational therapy in the state of Louisiana.

Application a written request directed to and received by the board, upon forms supplied by the board, for a license to practice occupational therapy in the state of Louisiana, together with all information, certificates, documents, and other materials required by the board to be submitted with such forms.

Association the Louisiana Occupational Therapy Association, Inc. (LOTA).

Board the Louisiana State Board of Medical Examiners.

Department the Louisiana Department of Health and Hospitals.

Good Moral Character as applied to an applicant means that the applicant has not, prior to or during the pendency of an application to the board, been guilty of any act, omission, condition, or circumstance which would provide legal cause under R.S. 37:3011 for the suspension or revocation of occupational therapy licensure; the applicant has not, prior to or in connection with his application, made any representation to the board, knowingly or unknowingly, which is in fact false or misleading as to a material fact or omits to state any fact or matter that is material to the application; and the applicant has not made any representation or failed to make a representation or engaged in any act or omission which is false, deceptive, fraudulent, or misleading in achieving or obtaining any of the qualifications for a license required by this Chapter.

License the lawful authority to engage in the practice of occupational therapy in the state of Louisiana, as evidenced by a certificate duly issued by and under the official seal of the board.

Louisiana Occupational Therapy Practice Act or *the Act* R.S. 39:3001-3014 as hereafter amended or supplemented.

NBCOT National Board for Certification in Occupational Therapy, Inc.

Occupational Therapist a person who is licensed to practice occupational therapy, as defined in this Chapter, and whose license is in good standing.

Occupational Therapy the application of any activity in which one engages for the purposes of evaluation, interpretation, treatment planning, and treatment of problems interfering with functional performance in persons impaired by physical illness or injury, emotional disorders, congenital or developmental disabilities, or the aging process, in order to achieve optimum functioning and prevention and health maintenance. The occupational therapist may enter a case for the purposes of providing consultation and indirect services and evaluating an individual for the need of services. Implementation of direct occupational therapy to individuals for their specific medical condition or conditions shall be based on a referral or order from a physician licensed to practice in the state of Louisiana. Practice shall be in accordance with published standards of practice established by the American Occupational Therapy Association, Inc. (AOTA), and the essentials of accreditation established by the agencies recognized to accredit specific facilities and programs. Specific occupational therapy services include, but are not limited to, activities of daily living (ADL); the design, fabrication, and application of prescribed temporary splints; sensorimotor activities; the use of specifically designed crafts; guidance in the selection and use of adaptive equipment; therapeutic activities to enhance functional performance; pre-vocational evaluation and training and consultation concerning the adaptation of physical environments for the handicapped. These services are provided to individuals or groups through medical, health, educational, and social systems. *Occupational therapy* shall not include the administration of massages by employees of the Hot Wells Health Resort.

Occupational Therapy Assistant a person who is licensed to assist in the practice of occupational therapy under the supervision of, and in activity programs with the consultation of, an occupational therapist licensed under this Chapter.

Person any individual, partnership, incorporated association, or corporate body, except that only an individual may be licensed under this Chapter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3001-3014 and R.S. 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 12:767 (November 1986), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 30:422 (March 2004).

Subchapter B. Qualifications for License

§1905. Scope of Subchapter

A. The rules of this Subchapter govern the licensing of occupational therapists and occupational therapy assistants who in order to practice occupational therapy or hold themselves out as an occupational therapist or an occupational therapy assistant, or as being able to practice occupational therapy or to render occupational therapy services in the state of Louisiana must meet all of the criteria set forth in the Subchapter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3001-3014 and R.S. 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 12:767 (November 1986).

§1907. Qualifications for License

A. To be eligible for a license, an applicant shall:

1. be of good moral character as defined by §1903;

2. be a citizen of the United States or possess valid and current legal authority to reside and work in the United States duly issued by the commissioner of the Immigration and Naturalization Service of the United States under and pursuant to the Immigration and Nationality Act (66 Stat. 163) and the commissioner's regulations thereunder (8 CFR);

3. have successfully completed the academic and supervised field work experience requirements to sit for the "Certification Examination for Occupational Therapist, Registered" or the "Certification Examination for Occupational Therapy Assistant" as administered for or by the NBCOT or such other certifying entity as may be approved by the board;

4. make written application to the board for review of proof of his current certification by the NBCOT on a form and in such a manner as prescribed by the board;

5. file a written application for licensure on a form provided by the board;

6. have taken and successfully passed the licensing examination required by the board in accordance with Sub Chapter D of this Chapter.

B. The burden of satisfying the board as to the qualifications and eligibility of the applicant for licensure shall be upon the applicant. An applicant shall not be deemed to possess such qualifications unless the applicant demonstrates and evidences such qualifications in the manner prescribed by, and to the satisfaction of, the board.

C. In addition to the substantive qualifications specified in §1907.A, to be eligible for a license, an applicant shall satisfy the procedures and requirements for application provided by §§1911 to 1955 of this Chapter and the procedures and requirements for examination provided by §§1917 to 1935 of this Chapter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3001-3014 and R.S. 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 12:767 (November 1986), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 30:422 (March 2004).

§1909. Waiver of Examination Requirements for Licensure

A. The board may waive the examination and grant a license to any applicant who presents proof of current licensure as an occupational therapist or occupational therapy assistant in another state, the District of Columbia, or a territory of the United States which requires standards for licensure considered by the board to be equivalent to the requirements for licensure of this Chapter, provided that such state, district, or territory accords similar privileges of licensure without examination to holders of a license under this Chapter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3001-3014 and R.S. 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 12:767 (November 1986).

Subchapter C. Application

§1911. Purpose and Scope

A. The rules of this Subchapter govern the procedures and requirements applicable to application to the board for licensing as an occupational therapist or an occupational therapy assistant in the state of Louisiana.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3001-3014 and R.S. 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 12:767 (November 1986).

§1913. Application Procedure

A. Application for licensing shall be made upon forms supplied by the board.

B. If application is made for licensing on the basis of examination an application must be received by the board on or before November 30 if the applicant intends to sit for the January administration of the examination, or on or before May 30 if the applicant intends to sit for the July administration of the examination.

C. Where waiver of the examination requirement is allowed under §1909, application for licensing may be made at any time.

D. Application forms and instructions pertaining thereto may be obtained upon written request directed to the office of the secretary-treasurer of the board, Suite 100, 830 Union Street, New Orleans, LA 70112. Application forms will be mailed by the board within 30 days of the board's receipt of request therefor. To ensure timely filing and completion of application, forms must be requested not later than 40 days prior to the deadlines for initial application specified in §1913.C.

E. An application for licensing under this Chapter shall include:

1. proof, documented in a form satisfactory to the board as specified by the secretary, that the applicant possesses the qualifications set forth in this Chapter;

2. three recent photographs of the applicant; and

3. such other information and documentation as the board may require to evidence qualification for licensing.

F. All documents required to be presented to the board or its designee must be the original thereof. For good cause shown, the board may waive or modify this requirement.

G. The board may refuse to consider any application which is not complete in every detail, including submission of every document required by the application form. The board may, in its discretion require a more detailed or complete response to any request for information set forth in the application form as a condition to consideration of an application.

H. Each application submitted to the board shall be accompanied by the applicable fee, as provided in Chapter 1 of these rules.

I. Upon submission of or concurrently with submission of a completed application, an applicant shall, by appointment, make a personal appearance before the board, or its designee, as a condition to the board's consideration of such application.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3001-3014 and R.S. 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 12:767 (November 1986), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 30:237 (February 2004).

§1915. Effect of Application

A. The submission of an application for licensing to the board shall constitute and operate as an authorization by the applicant to each educational institution at which the applicant has matriculated, each state or federal agency to which the applicant has applied for any license, permit, certificate, or registration, each person, firm, corporation, clinic, office, or institution by whom or with whom the applicant has been employed in the practice of occupational therapy, each physician or other health care practitioner whom the applicant has consulted or seen for diagnosis or treatment and each professional organization to which the applicant has applied for membership, to disclose and release to the board any and all information and documentation concerning the applicant which the board deems material to consideration of the application. With respect to any such information or documentation, the submission of an application for licensing to the board shall equally constitute and operate as a consent by the applicant to disclosure and release of such information and documentation and as a waiver by the applicant of any privilege or right of confidentiality which the applicant would otherwise possess with respect thereto.

B. By submission of an application for licensing to the board, an applicant shall be deemed to have given his consent to submit to physical or mental examinations if, when, and in the manner so directed by the board and to waive all objections as to the admissibility or disclosure of findings, reports, or recommendations pertaining thereto on the grounds of privileges provided by law. The expense of any such examination shall be borne by the applicant.

C. The submission of an application for licensing to the board shall constitute and operate as an authorization and consent by the applicant to the board to disclose and release any information or documentation set forth in or submitted with the applicant's application or obtained by the board from other persons, firms, corporations, associations, or governmental entities pursuant to §1915.A or B to any person, firm, corporation, association, or governmental entity having a lawful, legitimate, and reasonable need therefor, including, without limitation, the occupational therapy licensing authority of any state; the Federation of State Medical Boards of the United States; the AOTA; and any component state and county or parish medical society, including the Louisiana Occupational Therapy Association (LOTA); the Louisiana Department of Health and Human Resources; Federal, state, county or parish, and municipal health and law enforcement agencies and the Armed Services.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3001-3014 and R.S. 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 12:767 (November 1986).

Subchapter D. Examination

§1917. Designation of Examination

A. For purposes of licensure, the board shall use the examination administered by or on behalf of the NBCOT or such other certifying entity as the board may subsequently approve.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3001-3014 and R.S. 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 12:767 (November 1986), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 30:422 (March 2004).

§1919. Eligibility for Examination

A. To be eligible for examination an applicant for licensure must make application to the NBCOT or its designated contract testing agency in accordance with procedures and requirements of NBCOT. Information on the examination process, including fee schedules and application deadlines, must be obtained by each applicant from the NBCOT. Application for licensure under §1913 does not constitute application for examination.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3001-3014 and R.S. 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 12:767 (November 1986), amended by the Department of Health

and Hospitals, Board of Medical Examiners, LR 30:422 (March 2004).

§1921. Dates, Places of Examination

A. The dates on which and places where the NBCOT certification examination for occupational therapists and occupational therapy assistants are given are scheduled by the NBCOT.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3001-3014 and R.S. 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 12:767 (November 1986), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 30:422 (March 2004).

§1923. Observance of Examination

A. The NBCOT examination may be observed by a representative appointed by the board. The representative is authorized and directed by the board to obtain positive photographic identification from all applicants for licensure appearing and properly registered for the examination and to observe that all applicants for licensure abide by the rules of conduct established by the NBCOT.

B. An applicant for licensure who appears for examination shall:

1. present to the board's representative proof of registration for the examination and positive personal photographic and other identification in the form prescribed by the board; and

2. fully and promptly comply with any and all rules, procedures, instructions, directions, or requests made or prescribed by the NBCOT or its contract testing agency.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3001-3014 and R.S. 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 12:767 (November 1986), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 30:422 (March 2004).

§1925. Subversion of Examination Process

A. An applicant-examinee who engages or attempts to engage in conduct which subverts or undermines the integrity of the examination process shall be subject to the sanctions specified in §1929 of this Subchapter.

B. Conduct which subverts or undermines the integrity of the examination process shall be deemed to include:

1. refusing or failing to fully and promptly comply with any rules, procedures, instructions, directions, or requests made or prescribed by the NBCOT or its contract testing agency, or the board's representative;

2. removing from the examination room or rooms any of the examination materials;

3. reproducing or reconstructing, by copying, duplication, written notes, or electronic recording, any portion of the licensing examination;

4. selling, distributing, buying, receiving, obtaining, or having unauthorized possession of a future, current, or previously administered licensing examination;

5. communicating in any manner with any other examinee or any other person during the administration of the examination;

6. copying answers from another examinee or permitting one's answers to be copied by another examinee during the administration of the examination;

7. having in one's possession during the administration of the examination any materials or objects other than the examination materials distributed, including, without limitation, any books, notes, recording devices, or other written, printed, or recorded materials or data of any kind;

8. impersonating an examinee by appearing for and as an applicant and taking the examination for, as and in the name of an applicant other than himself;

9. permitting another person to appear for and take the examination on one's behalf and in one's name; or

10. engaging in any conduct which disrupts the examination or the taking thereof by other examinees.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3001-3014 and R.S. 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 12:767 (November 1986), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 30:423 (March 2004).

§1927. Finding of Subversion

A. When, during the administration of examination the board's representative, has reasonable cause to believe that an applicant-examinee is engaging or attempting to engage, or has engaged or attempted to engage, in conduct which subverts or undermines the integrity of the examination process, the board's representative shall take such action as he deems necessary or appropriate to terminate such conduct and shall report such conduct in writing to the board and the NBCOT.

B. When the board, upon information provided by the board’s representative, the NBCOT or its contract testing agency, an applicant-examinee or any other person, has probable cause to believe that an applicant has engaged or attempted to engage in conduct which subverts or undermines the integrity of the examination process, the board shall so advise the applicant in writing, setting forth the grounds for its finding of probable cause, specifying the sanctions which are mandated or permitted for such conduct by §1929 of this Subchapter and provide the applicant with an opportunity for hearing pursuant to the board's rules.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3001-3014 and R.S. 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 12:767 (November 1986), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 30:423 (March 2004).

§1929. Sanctions for Subversion of Examination

A. An applicant who is found by the board, prior to the administration of the examination, to have engaged in conduct or to have attempted to engage in conduct which subverts or undermines the integrity of the examination process may be permanently disqualified from taking the examination for purposes of licensure and from obtaining occupational therapy licensure in the state of Louisiana.

B. An applicant-examinee who is found by the board to have engaged or to have attempted to engage in conduct which subverts or undermines the integrity of the examination process shall be deemed to have failed the examination for purposes of licensure. Such failure shall be recorded in the official records of the board.

C. In addition to the sanctions permitted or mandated by §1929.A and B, as to an applicant-examinee found by the board to have engaged or to have attempted to engage in conduct which subverts or undermines the integrity of the examining process, the board may:

1. revoke, suspend, or impose probationary conditions on any license issued to such applicant;

2. disqualify the applicant, permanently or for a specified period of time, from eligibility for licensure in the state of Louisiana; or

3. disqualify the applicant, permanently or for a specified number of subsequent administrations of the examination, from eligibility for examination for purposes of licensure.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3001-3014 and R.S. 37:1270(B)(6).
HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 12:767 (November 1986).

§1931. Passing Score

A. The board shall use the criteria for satisfactory performance on the exam adopted by the NBCOT.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3001-3014 and R.S. 37:1270(B)(6).
HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 12:767 (November 1986), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 30:423 (March 2004).

§1933. Reporting of Examination Score

A. Applicants for licensure shall request the NBCOT to notify the board of successful completion of the examination according to procedures for such notification established by NBCOT.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3001-3014 and R.S. 37:1270(B)(6).
HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 12:767 (November 1986), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 30:423 (March 2004).

§1935. Restriction, Limitation on Examinations

A. An applicant having failed to attain a passing score upon taking the examination four times shall not thereafter be considered for licensing and shall not be eligible to take the examination again for purposes of licensure.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3001-3014 and R.S. 37:1270(B)(6).
HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 12:767 (November 1986).

Subchapter E. Temporary License

§1937. Temporary License in General

A. With respect to applicants who do not meet or possess all of the qualifications and requirements for licensing, the board may, in its discretion, issue such temporary licenses as are, in its judgment, necessary or appropriate to its responsibilities under law.

B. A temporary license entitles the holder to engage in the practice of occupational therapy in the state of Louisiana only for the period of time specified by such license and creates no right or entitlement to licensing or renewal of the license after its expiration.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3001-3014 and R.S. 37:1270(B)(6).
HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 12:767 (November 1986).

§1939. License Pending Examination

A. The board shall issue a temporary license to practice occupational therapy to an applicant who has completed the academic and supervised field work experience requirements specified under §1907 of this Chapter and has applied for and is waiting examination. The temporary license shall be valid until the date on which results of the qualifying examination have been known to and acted upon by the board.

B. An occupational therapist or occupational therapy assistant holding a temporary license issued under this Section may practice occupational therapy only under the direction of an occupational therapist licensed by the board, who shall provide such on premises, close supervision of and instruction to the temporary license holder as is adequate to ensure the safety and welfare of patients. The direction and supervision required with respect to an occupational therapist (but not an occupational therapy assistant) holding a temporary license under this Section shall be deemed to be satisfied by on-premises direction and immediate supervision by a licensed occupational therapist for not less than two hours each week.

C. A temporary license issued under this Section shall expire, and thereby become null, void, and to no effect, on the earliest of any date that:

1. the board gives written notice to the license holder that he has failed to achieve a passing score on the licensing examination;

2. the board gives written notice to the license holder pursuant to §1927.B that it has probable cause to believe that he has engaged or attempted to engage in conduct which subverted or undermined the integrity of the examination process;

3. the license holder is issued a license pursuant to §1943 or another type of license as provided for by §1941 of this Chapter; or

4. the holder of a license issued under this Section fails to appear for and take the licensing examination for which he has registered.

D. This temporary license shall be renewable only once as provided by §1941 if the applicant has not passed the examination or if the applicant has failed to take the examination. Exceptions to the one extension rule can be given at the discretion of the board upon a request identifying extenuating circumstances.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3001-3014 and R.S. 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 12:767 (November 1986), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 14:351 (June 1988).

§1940. Provisional Temporary Permit Pending Application for Visa

A. The board may issue a provisional temporary permit to an applicant for any license or permit provided for by these rules who is otherwise completely qualified for such license or permit, save for possessing an H-1 or equivalent visa as may be required by these rules, provided that the applicant has completed all applicable requirements and procedures for issuance of a license or permit and is eligible for an H-1 or equivalent visa under rules and regulations promulgated by the United States Immigration and Naturalization Service (INS).

B. A provisional temporary permit issued under this Section shall be of the same type and scope, and subject to the same terms and restrictions, as the license or permit applied for, provided, however, that a provisional temporary permit issued under this Section shall expire, and become null and void, on the earlier of:

1. 90 days from the date of issuance of such permit;

2. 10 days following the date on which the applicant receives notice of INS action granting or denying the applicant's petition for an H-1 or equivalent visa; or

3. the date on which the board gives notice to the applicant of its final action granting or denying issuance of the license or permit applied for.

C. The board may, in its discretion, extend or renew, for one or more additional 90-day periods, a provisional temporary permit issued hereunder which has expired pursuant to §1940.B.1, in favor of an applicant who holds a provisional temporary permit issued under this Section and who has filed a petition for H-1 or equivalent visa with the INS, but whose pending petition has not yet been acted on by the INS within 90 days from issuance of such provisional temporary permit.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3001-3014 and R.S. 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 19:1144 (September 1993).

§1941. License Pending Reexamination

A. An applicant who possesses all of the qualifications for licensing prescribed by §1907 of this Chapter, save for §1907.A.6, who has once failed the licensing examination required by the board, or who has once failed to take the licensing examination and who has applied to the board and completed all requirements for examination at the next scheduled date thereof shall be issued a temporary license to be effective pending the applicant's taking of the next scheduled occupational therapy licensing examination and the reporting of the applicant's scores thereon to the board.

B. An occupational therapist or occupational therapy assistant holding a temporary license issued under this Section may practice occupational therapy only under the direction of an occupational therapist license by the board, who shall provide such on premises, close supervision of and instruction to the temporary license holder as is adequate to ensure the safety and welfare of patients. The direction and supervision required with respect to an occupational therapist (but not an occupational therapy assistant) holding a temporary license under this Section shall be deemed to be satisfied by on-premises direction and immediate supervision by a licensed occupational therapist for not less than two hours each week.

C. A temporary license issued under this Section shall expire, and thereby become null, void, and to no effect on the earliest of any date that:

1. the board gives written notice to the license holder that he has failed to achieve a passing score on his second taking of the licensing examination;

2. the board gives written notice to the license holder pursuant to §1927.B that is has probable cause to believe that he has engaged or attempted to engage in conduct which subverted or undermined the integrity of the examination process; or

3. the holder of a license issued under this Section fails to appear for and take the licensing examination for which he has registered.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3001-3014 and R.S. 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 12:767 (November 1986), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 14:351 (June 1988).

§1942. Permit Pending Appearance before Board

A. The board may issue a temporary permit to an applicant for licensure as an occupational therapist or occupational therapy assistant who possesses and meets, and

has evidenced satisfaction of, all of the qualifications and requirements for licensure provided by this Chapter save for having made a personal appearance before the board, or its designee, as provided by §1913 of this Chapter. A temporary permit issued under this Section shall be valid and effective for not longer than 60 days from the date on which it is issued and shall expire, and thereby become null, void, and to no effect, on the date that the board takes formal action to grant or deny the applicant's application for permanent licensure.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3001-3014 and R.S. 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 19:340 (March 1993).

Subchapter F. License Issuance, Termination, Renewal and Reinstatement

§1943. Issuance of License

A. If the qualifications, requirements, and procedures prescribed or incorporated by §§1907 to 1909 are met to the satisfaction of the board, the board shall issue to the applicant a license to engage in the practice of occupational therapy in the state of Louisiana upon payment of the license fees set forth in Chapter 81 of the board's rules.

B. A license issued under §1907 of this Chapter shall be issued by the board within 30 days, following the reporting of the applicant's licensing examination score to the board. A license issued under any other Section of this Chapter shall be issued by the board within 15 days following the meeting of the board next following the date on which the applicant's application, evidencing all requisite qualifications, is completed in every respect.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3001-3014 and R.S. 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 12:767 (November 1986).

§1945. Expiration of License

A. Every license issued by the board under this Chapter, the expiration date of which is not stated thereon or provided by these rules, shall expire, and thereby become null, void, and to no effect, on the last day of the year in which such license was issued.

B. Notwithstanding the provisions of §1945.A, every license issued by the board under this Chapter to be effective on or after January 1, 1999, and each year thereafter, shall expire, and thereby become null, void and to no effect the following year on the first day of the month in which the licensee was born.

C. The timely submission of an application for renewal of a license shall operate to continue the expiring license in full force and effect pending issuance of the renewal license.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3001-3014 and R.S. 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 12:767 (November 1986), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 24:1499 (August 1998).

§1947. Renewal of License

A. Every license issued by the board under this Subchapter shall be renewed annually on or before its date of expiration by submitting to the board an application for renewal upon forms supplied by the board, together with the renewal fee prescribed in Chapter 1 of these rules and documentation of satisfaction of the continuing professional education requirements prescribed by Subchapter H of these rules.

B. Notwithstanding the provisions of §1947.A, every license issued by the board under this Subchapter to be effective on or after January 1, 1999, shall be renewed in the year 2000, and each year thereafter, on or before the first day of the month in which the licensee was born. Renewal fees shall be prorated if the license is to be effective for more than one year.

C. An application for renewal of license form shall be mailed by the board to each person holding a license at least 30 days prior to the expiration date of the license each year. Such form shall be mailed to the most recent address of each licensee as reflected in the official records of the board.

D. The renewal of a license which has expired for 60 days or less may be renewed by submitting to the board an application for renewal upon forms supplied by the board together with the late renewal fee prescribed in Chapter 81 of these rules.

E. Current registration or certification is not a prerequisite to renewal of a license to practice as an occupational therapist or occupational therapy assistant.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3001-3014 and R.S. 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 12:767 (November 1986), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 20:1003 (September 1994), LR 24:1499 (August 1998), LR 30:237 (February 2004), amended LR 30:423 (March 2004).

§1949. Reinstatement of License

A. A license which has expired may be reinstated by the board subject to the conditions and procedures hereinafter provided.

B. An application for reinstatement shall be made upon forms supplied by the board and accompanied by two letters of character recommendation, one from a reputable physician and one from a reputable occupational therapist of the former licensee's last professional location, together with the applicable late renewal and reinstatement fees prescribed in Chapter 1 of these rules.

C. Reinstatement of a license that has expired for two years or more may include additional fees and requirements as the board deems appropriate, including but not limited to

reexamination in accordance with Subchapter D, satisfaction of the requirements of Subchapter H with respect to continuing professional education, and/or complying with all requirements and procedures for obtaining an original license.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3001-3014 and R.S. 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 12:767 (November 1986), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 20:1003 (September 1994), LR 30:423 (March 2004).

§1951. Titles of Licensees

A. Any person who is issued a license as an occupational therapist under the terms of this Chapter may use the words "occupational therapist," "licensed occupational therapist," or he may use the letters "OT" or "LOT," in connection with his name or place of business to denote his licensure. In addition, any person currently certified or registered by and in good standing with the NBCOT, may use the words "licensed occupational therapist registered" or "occupational therapist registered" or "LOTR" or "OTR."

B. Any person who is issued a license as an occupational therapy assistant under the terms of this Chapter may use the words "occupational therapy assistant," "licensed occupational therapy assistant," or he may use the letters "OTA" or "LOTA" in connection with his name or place of business to denote his licensure. In addition, any person currently certified as an assistant by and in good standing with the NBCOT, may use the designation "licensed certified occupational therapy assistant" or "LCOTA" or "certified occupational therapy assistant" or "COTA."

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3001-3014 and R.S. 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 12:767 (November 1986), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 30:423 (March 2004).

§1953. Suspension and Revocation of License; Refusal to Renew

A. The board may refuse to renew a license, may suspend or revoke a license, or may impose probationary conditions, if the licensee or applicant for license has been guilty of unprofessional conduct which has endangered or is likely to endanger the health, welfare, or safety of the public. Such unprofessional conduct shall include:

1. obtaining a license by means of fraud, misrepresentation, or concealment of material facts;

2. being guilty of unprofessional conduct, as defined by policies established by the board, or violating the code of ethics adopted and published by the AOTA;

3. conviction of a crime other than a minor offense in any court if the acts for which he was convicted are found by the board to have a direct bearing on whether he should be entrusted to serve the public in the capacity of an occupational therapist or occupational therapy assistant.

B. Denial, refusal to renew, suspension, revocation, or imposition of probationary conditions upon a licensee may be ordered by the board in a decision made after a hearing in the manner provided by Subpart 5 of the board's rules. One year after the date of the revocation of a license, application may be made to the board for reinstatement. The board shall have discretion to accept or reject an application for reinstatement, but shall hold a hearing to consider such reinstatement.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3001-3014 and R.S. 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 12:767 (November 1986).

§1955. False Representation of Licensure Prohibited

A. No person who is not licensed under this Chapter as an occupational therapist or an occupational therapy assistant, or whose license has been suspended or revoked, shall use, in connection with his name or place of business, the words "occupational therapist," "licensed occupational therapist," "occupational therapy assistant," "licensed occupational therapy assistant," or the letters, "OT," "LOT," "OTA," "LOTA," or any other words, letters, abbreviations, or insignia indicating or implying that he is an occupational therapist or an occupational therapy assistant, or in any way, orally, in writing, in print, or by sign, directly or by implication, represent himself as an occupational therapist or an occupational therapy assistant.

B. No person who is not licensed under this Chapter as an occupational therapist or an occupational therapy assistant, or whose license has been suspended or revoked, who is not currently certified or registered by and in good standing with the NBCOT shall use, in connection with his name or place of business, the words "occupational therapist registered," "licensed occupational therapist registered," "certified occupational therapy assistant," or "licensed certified occupational therapy assistant" or the letters, "OTR," "LOTR," or "COTA," or "LCOTA" or any other words, letters, abbreviations, or insignia indicating or implying that he is an occupational therapist registered or a certified occupational therapy assistant, or in any way, orally, in writing, in print, or by sign, directly or by implication, represent himself as such.

C. Whoever violates the provisions of this Section shall be fined not more than $500 or be imprisoned for not more than six months, or both.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3001-3014 and R.S. 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 12:767 (November 1986), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 30:424 (March 2004).

Subchapter G. Occupational Therapy Advisory Committee

§1957. Constitution of Committee

A. To assist the board in the review of applicants' qualifications for licensure and renewal of licensure under this Chapter, the board shall constitute and appoint an Occupational Therapy Advisory Committee (advisory committee) which shall be organized and shall function in accordance with the provisions of this Subchapter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3001-3014 and R.S. 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 12:767 (November 1986), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 20:1003 (September 1994).

§1959. Composition; Appointment

A. The advisory committee shall comprise nine members who shall be occupational therapists licensed by the board and practicing and residing within the state of Louisiana, consisting, more particularly, of one licensed occupational therapist proficient in and representing each of the following areas of occupational therapy practice:

1. administration and management;
2. developmental disabilities;
3. education;
4. gerontology;
5. mental health;
6. physical disabilities;
7. sensory integration;
8. technology; and
9. work programs.

B. Insofar as possible or practical, in its appointment of members to the advisory committee, the board shall maintain geographic diversity so as to provide membership on the advisory committee by occupational therapists residing and practicing in North, Central, Southwestern, and Southeastern Louisiana.

C. Of the board's initial appointment of members to the advisory committee following the effective date of these rules, four appointees shall be designated to serve terms expiring on the last day of the year of appointment and five to serve terms expiring on the last day of the year succeeding the year of appointment. Thereafter, each member of the advisory committee shall serve a term of two years, subject to removal at any time at the pleasure of the board. Members appointed to the advisory committee by the board to fill a vacancy occurring on the advisory committee other than by expiration of the designated term shall serve for the unexpired term. A member of the advisory committee may be appointed by the board for not more than three consecutive terms. Other than the initial appointments provided for herein, board appointments to the advisory committee shall be effective when made with respect to appointments for unexpired terms and otherwise shall be effective as of the first day of the year following the date of appointment.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3001-3014 and R.S. 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 12:767 (November 1986), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 20:1003 (September 1994).

§1961. Delegated Duties and Responsibilities

A. The advisory committee is authorized by the board to:

1. advise and assist the board in the ongoing evaluation of the occupational therapy licensing examination required by the board;

2. assist the board in examining the qualifications and credentials of and interviewing applicants for occupational therapy licensure and make recommendations thereon to the board;

3. provide advice and recommendations to the board respecting the modification, amendment, and supplementation of rules and regulations, standards, policies, and procedures respecting occupational therapy licensure and practice;

4. serve as a liaison between and among the board, licensed occupational therapists and occupational therapy assistants, and occupational therapy professional associations;

5. receive reimbursement for attendance at board meetings and for other expenses when specifically authorized by the board; and

6. advise and assist the board in the review and approval of continuing professional education programs and licensee satisfaction of continuing professional education requirements for renewal of licensure, as prescribed by Subchapter H of these rules, including the authority and responsibility to:

a. evaluate organizations and entities providing or offering to provide continuing professional education programs for occupational therapists and occupational therapy assistants and provide recommendations to the board with respect to the board's recognition and approval of such organizations and entities as sponsors of qualifying continuing professional education programs and activities pursuant to §1969 of these rules;

b. review documentation of continuing professional education by occupational therapist and occupational therapy assistants, verify the accuracy of such documentation, and evaluation of and make recommendations to the board with respect to whether programs and activities evidenced by applicants for renewal of licensure comply with and satisfy the standards for such programs and activities prescribed by these rules; and

c. request and obtain from applicants for renewal of licensure such additional information as the advisory committee may deem necessary or appropriate to enable it to make the evaluations and provide the recommendations for which the committee is responsible.

B. In discharging the functions authorized under this Section the advisory committee and the individual members thereof shall, when acting within the scope of such authority, be deemed agents of the board. All information obtained by the advisory committee members pursuant to §1961.A.2 and 6 shall be considered confidential. Advisory committee members are prohibited from communicating, disclosing, or in any way releasing to anyone, other than the board, any information or documents obtained when acting as agents of the board without first obtaining written authorization of the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3001-3014 and R.S. 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 12:767 (November 1986), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 20:1004 (September 1994).

Subchapter H. Continuing Professional Education

§1963. Scope of Subchapter

A. The rules of this Subchapter provide standards for the continuing professional education requisite to the annual renewal of licensure as an occupational therapist or occupational therapy assistant, as required by §§1947 and 1965 of these rules, and prescribe the procedures applicable to satisfaction and documentation of continuing professional education in connection with application for renewal of licensure.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3012(B) and R.S. 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 20:1004 (September 1994).

§1965. Continuing Professional Education Requirement

A. Subject to the exceptions specified in §1979 of this Subchapter, to be eligible for renewal of licensure for 1996 and thereafter, an occupational therapist or occupational therapy assistant shall, within each year during which he holds licensure, evidence, and document, upon forms supplied by the board, successful completion of not less than 15 contact hours, or 1.5 continuing education units (CEUs).

B. One CEU constitutes 10 hours of participation in an organized continuing professional education program approved by the board and meeting the standards prescribed in this Subchapter; one continuing professional education hour is equal to one-tenth of a CEU. Fifteen hours, or 1.5 CEUs, is required to meet the standards prescribed by this Subchapter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3012(B) and R.S. 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 20:1004 (September 1994).

§1967. Qualifying Continuing Professional Education Programs

A. To be acceptable as qualified continuing professional education under these rules a program shall:

1. have significant and substantial intellectual or practical content dealing principally with matters germane and relevant to the practice of occupational therapy;

2. have preestablished written goals and objectives, with its primary objective being to maintain or increase the participant's competence in the practice of occupational therapy;

3. be presented by persons whose knowledge and/or professional experience is appropriate and sufficient to the subject matter of the presentation;

4. provide a system or method for verification of attendance or course completion; and

5. be a minimum of one continuous hour in length.

B. None of the following programs, seminars, or activities shall be deemed to qualify as acceptable CPE programs under these rules:

1. any program not meeting the standards prescribed by §1967.A;

2. independent study not approved or sponsored by the AOTA or the LOTA for the Independent Study Program;

3. any program, presentation, seminar, or course of instruction not providing the participant an opportunity to ask questions or seek clarification of specific matters presented;

4. teaching, training, or supervisory activities;

5. holding office in professional or governmental organizations, agencies, or committees;

6. participation in case conferences, informal presentations, or in-service activities;

7. giving or authorizing verbal or written presentations, seminars, articles, or grant applications.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3012(B) and R.S. 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 20:1004 (September 1994).

§1969. Approval of Program Sponsors

A. Any program, course, seminar, workshop, or other activity meeting the standards prescribed by §1967.A sponsored or offered by the AOTA or the LOTA shall be presumptively deemed approved by the board for purposes of qualifying as an approved continuing professional education program under these rules.

B. Upon the recommendation of the advisory committee, the board may designate additional organizations and entities whose programs, courses, seminars, workshops, or other activities shall be deemed approved by the board for purposes of qualifying as an approved continuing professional education program under §1967.A.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3012(B) and R.S. 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 20:1005 (September 1994).

§1971. Approval of Programs

A. A continuing professional education program sponsored by an organization or entity not deemed approved by the board pursuant to §1969.A may be preapproved by the board as a program qualifying and acceptable for satisfying continuing professional education requirements under this Subchapter upon written request to the board therefor, upon a form supplied by the board, providing a complete description of the nature, location, date, content, and purpose of such program and such other information as the board or the advisory committee may request to establish the compliance of such program with the standards prescribed by §1967.A. Any such request for preapproval respecting a program which makes and collects a charge for attendance shall be accompanied by a nonrefundable processing fee of $30.

B. Any such written request shall be referred by the board to the advisory committee for its recommendation. If the advisory committee's recommendation is against approval, the board shall give notice of such recommendation to the person or organization requesting approval and such person or organization may appeal the advisory committee's recommendation to the board by written request delivered to the board within 10 days of such notice. The board's decision with respect to approval of any such activity shall be final. Persons and organizations requesting preapproval of continuing professional education programs should allow not less than 60 days for such requests to be processed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3012(B) and R.S. 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 20:1005 (September 1994).

§1973. Documentation Procedure

A. A form for annual documentation and certification of satisfaction of the continuing professional education requirements prescribed by these rules shall be mailed by the board to each occupational therapist and occupational therapy assistant subject to such requirements with the application for renewal of licensure form mailed by the board pursuant to §1947.B of these rules. Such form shall be completed and delivered to the board with the licensee's renewal application.

B. Any certification of continuing professional education not presumptively approved by the board pursuant to these rules, or preapproved by the board in writing, shall be referred to the advisory committee for its evaluation and recommendations pursuant to §1961.A.6.b. If the advisory committee determines that a program or activity certified by an applicant for renewal in satisfaction of continuing professional education requirements does not qualify for recognition by the board or does not qualify for the number of CEUs claimed by the applicant, the board shall give notice of such determination to the applicant for renewal and the applicant may appeal the advisory committee's recommendation to the board by written request delivered to the board within 10 days of such notice. The board's decision with respect to approval and recognition of any such program or activity shall be final.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3012(B) and R.S. 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 20:1005 (September (1994).

§1975. Failure to Satisfy Continuing Professional Education Requirements

A. An applicant for renewal of licensure who fails to evidence satisfaction of the continuing professional education requirements prescribed by these rules shall be given written notice of such failure by the board. The license of the applicant shall remain in full force and effect for a period of 60 days following the mailing of such notice, following which it shall be deemed expired, unrenewed, and subject to revocation without further notice, unless the applicant shall have, within such 60 days furnished the board satisfactory evidence, by affidavit, that:

1. the applicant has satisfied the applicable continuing professional education requirements;

2. the applicant is exempt from such requirements pursuant to these rules; or

3. the applicant's failure to satisfy the continuing professional education requirements was occasioned by disability, illness, or other good cause as may be determined by the board.

B. The license of an occupational therapist or occupational therapy assistant whose license has expired by nonrenewal or has been revoked for failure to satisfy the continuing professional education requirements of these rules may be reinstated by the board upon written application to the board, accompanied by payment of a reinstatement fee, in addition to all other applicable fees and costs, of $50, together with documentation and certification that:

1. the applicant has, during each year since the date on which the applicant's license lapsed, expired, or was revoked, completed 12 contact hours (1.2 CEUs) of qualifying continuing professional education and the following additional continuing professional education, as applicable:

a. if the application for reinstatement is made more than one year and less than three years following the date on which such license lapsed, expired, or was revoked, the

applicant shall evidence completion of and additional six contact hours (0.6 CEU) of qualifying continuing professional education since the date on which the applicant's license lapsed, expired, or was revoked;

b. if the application for reinstatement is made more than three years and less than five years following the date on which such license lapsed, expired, or was revoked, the applicant shall evidence completion of and additional eight contact hours (0.8 CEU) of qualifying continuing professional education within the 12 months period preceding application for reinstatement;

c. if the application for reinstatement is made more than five years following the date on which such license lapsed, expired, or was revoked, the applicant shall evidence completion of an additional 10 contact hours (1.0 CEU) of qualifying continuing professional education within the 12 months period preceding application for reinstatement; or

2. the applicant has, within one year prior to making application for reinstatement, taken and successfully passed the recertification examination of the NBCOT.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3012(B) and R.S. 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 20:1005 (September 1994), amended LR 24:1499 (August 1998), LR 30:424 (March 2004).

§1977. Waiver of Requirements

A. The board may, in its discretion and upon the recommendation of the advisory committee, waive all or part of the continuing professional education required by these rules in favor of an occupational therapist or occupational therapy assistant who makes written request for such waiver to the board and evidences to the satisfaction of the board a permanent physical disability, illness, financial hardship, or other similar extenuating circumstances precluding the individual's satisfaction of the continuing professional education requirements.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3012(B) and R.S. 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 20:1006 (September 1994).

§1979. Exceptions to Continuing Professional Education Requirements

A. The continuing professional education requirements prescribed by this Subchapter as requisite to renewal of licensure shall not be applicable to:

1. an occupational therapist or occupational therapy assistant employed exclusively by, or at an institution operated by, any department or agency of the state of Louisiana; or

2. an occupational therapist or occupational therapy assistant who has held an initial Louisiana license on the basis of examination for a period of less than one year.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3012(B) and R.S. 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 20:1006 (September 1994).

Chapter 21. Acupuncturists and Acupuncturists' Assistants

Subchapter A. General Provisions

§2101. Scope of Chapter

A. The rules of this Chapter govern the certification of acupuncturists and acupuncturists' assistants to perform and practice traditional Chinese acupuncture in the state of Louisiana.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1360 and R.S. 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 19:334 (March 1993).

§2103. Definitions

A. As used in this Chapter, the following terms shall have the meanings specified:

Applicant a person who has applied to the board for certification as an acupuncturist or acupuncturist's assistant in the state of Louisiana.

Application a written request directed to and received by the board, upon forms supplied by the board, for certification to perform or practice acupuncture in the state of Louisiana, together with all information, certificates, documents, and other materials required by the board to be submitted with such forms.

Board the Louisiana State Board of Medical Examiners.

Good Moral Character as applied to an applicant, means that:

a. the applicant, if a physician, has not, prior to or during the pendency of an application to the board, been guilty of any act, omission, condition, or circumstance which would provide legal cause under R.S. 37:1285 for the denial, suspension, or revocation of medical licensure;

b. the applicant has not, prior to or during the pendency of an application to the board, been culpable of any act, omission, condition, or circumstance which would provide cause under §5113 of these rules for the suspension or revocation of certification as an acupuncturist or acupuncturist's assistant;

c. the applicant has not, prior to or in connection with his application, made any representation to the board, knowingly or unknowingly, which is in fact false or misleading as to a material fact or omits to state any fact or matter that is material to the application; and

d. the applicant has not made any representation or failed to make a representation or engaged in any act or omission which is false, deceptive, fraudulent, or misleading in achieving or obtaining any of the qualifications for certification required by this Chapter.

Physician a person possessing a doctor of medicine or an equivalent degree duly awarded by a medical educational institution approved by the board pursuant to Chapter 3, §§333 to 341.

Proposed Supervising Physician a physician who has submitted to the board an application for approval as a supervising physician.

Supervising Physician a person approved by the board under this Chapter to employ and supervise an acupuncturist's assistant.

B. Masculine terms wheresoever used in this Chapter shall also be deemed to include the feminine.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1360 and R.S. 37:1270(B)(6).
HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 19:334 (March 1993).

Subchapter B. Acupuncturist Certification

§2105. Scope of Subchapter

A. The rules of this Subchapter prescribe the qualifications and procedures requisite to certification as an acupuncturist in the state of Louisiana.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1360 and R.S. 37:1270(B)(6).
HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 19:335 (March 1993).

§2107. Qualifications for Certification as Acupuncturist

A. To be eligible for certification as an acupuncturist, an applicant shall:

1. be a physician possessing a current, unrestricted license to practice medicine in the state of Louisiana duly issued by the board;

2. be of good moral character as defined by §2103.a; and

3. have successfully completed not less than six months of training in traditional Chinese acupuncture in a school or clinic approved by the board pursuant to §§2117-2123 of this Chapter.

B. The burden of satisfying the board as to the qualifications and eligibility of the applicant for certification shall be upon the applicant. An applicant shall not be deemed to possess such qualifications unless the applicant demonstrates and evidences such qualifications in the manner prescribed by, and to the satisfaction of, the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1360 and R.S. 37:1270(B)(6).
HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 19:335 (March 1993).

§2109. Application Procedure

A. Application for certification shall be made upon forms supplied by the board. Application forms and instructions pertaining thereto may be obtained upon written request directed to the office of the board, Suite 100, 830 Union Street, New Orleans, LA, 70112.

B. An application for certification under this Chapter shall include:

1. proof, documented in a form satisfactory to the board, that the applicant possesses the qualifications set forth in this Chapter;

2. three recent photographs of the applicant; and

3. such other information and documentation as the board may require to evidence qualification for licensing.

C. All documents required to be submitted to the board must be the original thereof. All documentation submitted in a language other than English shall be accompanied by a translation into English certified by a translator other than the applicant who shall attest to the accuracy of such translation under penalty of perjury.

D. The board may refuse to consider any application which is not complete in every detail, including submission of every document required by the application form. The board may, in its discretion, require a more detailed or complete response to any request for information set forth in the application form as a condition to consideration of an application.

E. Each application submitted to the board shall be accompanied by the applicable fee, as provided in Chapter 1 of these rules.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1360 and R.S. 37:1270(B)(6).
HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 19:335 (March 1993).

Subchapter C. Acupuncturist's Assistant Certification

§2111. Scope of Subchapter

A. The rules of this Subchapter prescribe the qualifications and procedures requisite to certification as an acupuncturist's assistant in the state of Louisiana.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1360 and R.S. 37:1270(B)(6).
HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 19:335 (March 1993).

§2113. Qualifications for Certification as an Acupuncturist's Assistant; Approval as Supervising Physician

A. To be eligible for certification as an acupuncturist's assistant, an applicant:

1. shall be at least 21 years of age;

2. shall be of good moral character as defined by §2103.a;

3. shall have successfully completed a four-year course of instruction in a high school or its equivalent;

4. shall be a citizen of the United States or possess valid and current legal authority to reside and work in the United States duly issued by the commissioner of the Immigration and Naturalization Service of the United States under and pursuant to the Immigration and Nationality Act (66 Stat. 163) and the commissioner's regulations thereunder (8 CFR);

5. shall have either:

a. successfully completed not less than 36 months of training in traditional Chinese acupuncture in a school or clinic approved by the board pursuant to §§2117-2123 of this Chapter; or

b. have been formally appointed or employed to perform acupuncture exclusively for research purposes by and at:

i. an accredited licensed hospital located in the state of Louisiana; or

ii. an accredited school or college of medicine located in the state of Louisiana.

B. To be eligible for approval under this Chapter, a proposed supervising physician shall, as of the date of the application:

1. possess a current, unrestricted license to practice medicine in the state of Louisiana; and

2. have been in the active practice of medicine for at least five years following the completion of postgraduate residency training, if any.

C. The burden of satisfying the board as to the qualifications and eligibility of the applicant and proposed supervising physician for certification and approval shall be upon the applicant and proposed supervising physician, who shall demonstrate and evidence such qualifications in the manner prescribed by, and to the satisfaction of, the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1360 and R.S. 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 19:335 (March 1993).

§2115. Application Procedure

A. Application for certification as an acupuncturist's assistant shall be made upon forms supplied by the board and must be submitted by the proposed supervising physician. Application forms and instructions pertaining thereto may be obtained upon written request directed to the office of the board, Suite 100, 830 Union Street, New Orleans, LA, 70112.

B. Application for certification and approval under this Subchapter shall include:

1. proof, documented in a form satisfactory to the board that the applicant possesses the qualifications set forth in §2113 of this Chapter;

2. a detailed description of the proposed supervising physician's professional background and specialty, if any; the nature and scope of his medical practice; the geographic and demographic characteristics of his medical practice; the address or location of the office where the applicant is to be employed;

3. a description of the proposed supervising physician's knowledge of and prior training or experience, if any, in traditional Chinese acupuncture;

4. a description of the specific activities to be performed by the applicant, the way in which the applicant will be utilized as an acupuncturist's assistant, and the methods to be used by the proposed supervising physician to insure responsible direction and control of the activities of the applicant as an acupuncturist's assistant;

5. affidavits, notarized and properly executed by the applicant and proposed supervising physician, certifying the truthfulness and authenticity of all information, representations, and documents contained in or submitted with the completed application; and

6. such other information and documentation as the board may require.

C. All documents required to be submitted to the board must be the original or certified copy thereof. All documentation submitted in a language other than English shall be accompanied by a translation into English certified by a translator other than the applicant who shall attest to the accuracy of such translation under penalty of perjury.

D. The board may reject or refuse to consider any application which is not complete in every detail, including submission of every document required by the application form. The board may in its discretion require a more detailed or complete response to any request for information set forth in the application form as a condition to consideration of an application.

E. Each application submitted to the board shall be accompanied by the applicable fee, as provided in Chapter 1 of these rules.

F. Upon submission of a completed application form, together with the documents required thereby, and the payment of the application fee, the applicant and proposed supervising physician shall make a personal appearance before a member of the board, or its designee, to be interviewed regarding their qualifications for certification and approval under this Subchapter and their understanding of the authority, limitations, obligations, and responsibilities imposed on acupuncturists' assistants and supervising physicians by laws and regulations applicable thereto.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1360 and R.S. 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 19:336 (March 1993).

Subchapter D. Board Approval of Acupuncture Schools and Clinics

§2117. Scope of Subchapter

A. The rules of this Subchapter provide the method and procedures by which acupuncture schools and clinics are approved by the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1360 and R.S. 37:1270(B)(6).
HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 19:336 (March 1993).

§2119. Applicability of Approval

A. Successful completion of formal training in traditional Chinese acupuncture from a school or clinic approved by the board is among the qualifications requisite to certification as an acupuncturist, as provided by §2107.A.3, and is an alternative qualification requisite to certification as an acupuncturist's assistant as provided by §2113.A.4.a. This qualification will be deemed to be satisfied if the school or clinic in which the applicant received training in traditional Chinese acupuncture was approved by the board as of the date on which the applicant completed such training.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1360 and R.S. 37:1270(B)(6).
HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 19:336 (March 1993).

§2121. Approval of Acupuncture Schools

A. A school providing training in traditional Chinese acupuncture which is currently accredited by the National Accreditation Commission for Schools and Colleges of Acupuncture and Oriental Medicine (NACSCAOM) shall concurrently be deemed approved by the board.

B. A school providing training in traditional Chinese acupuncture which has been accorded candidacy status by NACSCAOM shall concurrently be deemed conditionally approved by the board, provided that board approval shall be automatically withdrawn if accreditation is not awarded by NACSCAOM within three years of the date on which candidacy status was recognized.

C. The board may approve additional schools or programs providing training in traditional Chinese acupuncture upon the request of an applicant or application by any such school or program and upon the submission to the board of documentation that such school or program provides training in Chinese acupuncture under standards substantially equivalent to those prescribed by NACSCAOM for accreditation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1360 and R.S. 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 19:336 (March 1993).

§2123. List of Approved Schools

A. A listing of approved schools and programs providing training in traditional Chinese acupuncture is set forth in an Appendix to Chapter 51 (§5115) and shall from time to time be amended and supplemented by the board consistently with the provisions of this Subchapter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1360 and R.S. 37:1270(B)(6).
HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 19:337 (March 1993).

Subchapter E. Certification Issuance, Termination, Renewal, Reinstatement

§2125. Issuance of Certification

A. If the qualifications, requirements, and procedures of §§2107 and 2109 are met to the satisfaction of the board, the board shall certify the applicant as an acupuncturist.

B. If the qualifications, requirements, and procedures of §§2113 and 2115 are met to the satisfaction of the board, the board shall certify the applicant as an acupuncturist's assistant, subject to the terms, restrictions, and limitations set forth in the approved application. Issuance of certification to an applicant under this Chapter shall constitute approval of the proposed supervising physician.

C. Each acupuncturist's assistant's certificate issued under this Chapter shall be endorsed as Class A or Class B as follows.

1. An acupuncturist's assistant Class A certificate shall be issued to an applicant who qualifies for certification pursuant to §2113.A.5.a of this Chapter.

2. An acupuncturist's assistant Class B certificate shall be issued to an applicant who qualifies for certification pursuant to §2113.A.5.b of this Chapter. Such certificate shall be further endorsed with the name and location of the hospital, medical school, or clinic at which the applicant is to be employed to perform acupuncture exclusively for research purposes.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1360 and R.S. 37:1270(B)(6).
HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 19:337 (March 1993).

§2127. Expiration and Termination of Certification

A. Every certification and approval issued by the board under this Chapter, the expiration date of which is not stated thereon, shall expire, and become null, void, and to no effect on the last day of the year in which such certification was issued.

B. The timely submission of an application for renewal of certification, as provided by §2129 of this Chapter, shall operate to continue the expiring certification in full force and effect pending issuance or denial of renewal certification.

C. Certification as an acupuncturist's assistant, whether an initial certificate or renewal thereof, shall terminate on and as of any day that:

1. the supervising physician no longer possesses a current, unrestricted license to practice medicine in the state of Louisiana;

2. the supervising physician, whether voluntarily or involuntarily, ceases the active practice of medicine; or

3. the employment relationship between the acupuncturist's assistant and the supervising physician is terminated.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1360 and R.S. 37:1270(B)(6).
HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 19:337 (March 1993).

§2129. Renewal of Certification

A. Every certificate issued by the board under this Chapter shall be renewed annually on or before its date of expiration by submitting to the board a properly completed application for renewal, upon forms supplied by the board, together with the renewal fee prescribed in Chapter 1 of these rules.

B. An application for renewal of certification form shall be mailed by the board to each person holding certification issued under this Chapter on or before the first day of December of each year. Such form shall be mailed to the most recent address of each certificate holder as reflected in the official records of the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1360 and R.S. 37:1270(B)(6).
HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 19:337 (March 1993).

Chapter 23. Licensed Midwives

Subchapter A. General Provisions

§2301. Scope of Chapter

A. The Rules of this Chapter govern the licensing of midwife practitioners to engage in the practice of midwifery in the state of Louisiana.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270 and R.S. 37:3241-3257.
HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 12:513 (August 1986), amended LR 17:779 (August 1991).

§2303. Definitions

A. As used in this Chapter, the following terms shall have the meanings specified.

Applicant a person who has applied to the board for a license to engage in the practice of midwifery or for a permit as an apprentice midwife in the state of Louisiana.

Application a written request directed to and received by the board, upon forms supplied by the board, for a license or permit to practice midwifery in the state of Louisiana, together with all information, certificates, documents, and other materials required by the board to be submitted with such forms.

Apprentice Midwife any person who is granted a permit to obtain the educational and clinical experience required to apply for a license.

Board the Louisiana State Board of Medical Examiners.

Certified Nurse-Midwife a registered nurse who has been certified by the American College of Nurse-Midwives.

Department the Louisiana Department of Health and Hospitals.

Licensed Midwife Practitioner a person who has completed all the requirements of the board including the prescribed education and experience, has passed the licensing examination, and is licensed to practice midwifery in the state of Louisiana.

Louisiana Advisory Committee on Midwifery the committee constituted and appointed pursuant to R.S. 37:3242.

Midwife a person who gives care and advice to a woman during pregnancy, labor, and the postnatal period and who is capable of conducting vaginal deliveries in uncomplicated pregnancies on her own.

Midwifery Instructor a physician licensed to practice medicine in the state of Louisiana, certified nurse-midwife, or licensed midwife who has a formal training and supervisory relationship with an apprentice midwife.

Physician a person licensed to practice medicine who is actively engaged in a clinical obstetrical practice and has hospital privileges in obstetrics in a hospital accredited by the Joint Commission on the Accreditation of Health Care Organizations (JCAHO).

Practice of Midwifery holding oneself out to the public as being engaged in the business of attending, assisting, or advising a woman during the various phases of the interconceptional and childbearing periods, with the supervision of a physician who is actively engaged in a clinical practice of obstetrics and has hospital privileges in obstetrics in a JCAHO accredited hospital.

Supervision of a Physician the client shall be seen by a physician for physical examination at least once during the first or second trimester of pregnancy and again at least once within the last four weeks of pregnancy.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270 and R.S. 37:3241-3257.
HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 12:513 (August 1986), amended LR 17:779 (August 1991).

Subchapter B. Qualifications for Licensure

§2305. Scope of Subchapter

A. The rules of this Subchapter govern the licensing of midwives who in order to become licensed midwife practitioners must meet all of the criteria provided by this Chapter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270 and R.S. 37:3241-3257.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 12:513 (August 1986), amended LR 17:779 (August 1991).

§2307. Qualifications for License

A. To be eligible for licensure as a licensed midwife, an applicant shall:

1. be at least 21 years of age and shall have graduated from high school;

2. be a citizen of or lawfully authorized to reside and be employed in the United States;

3. be currently certified in basic cardiopulmonary resuscitation (CPR);

4. have demonstrated competence in the basic sciences of human anatomy, human physiology, biology, psychology, and nutrition in the manner prescribed by §2353 of this Chapter;

5. have completed a course of study in the theory of pregnancy and childbirth as provided by §2355;

6. have met, within four years prior to the date of application, the following requirements for practical clinical experience prescribed by §2357 of this Chapter;

7. have demonstrated professional competence in the practice of midwifery by passing an examination administered by the board; and

8. cause to be submitted to the board four written recommendations of the applicant for licensure, one by a physician or certified nurse-midwife, one by a licensed midwife, one by a consumer of midwifery services, and one by a member of the community in which the applicant resides.

B. The burden of satisfying the board as to the qualifications and eligibility of the applicant for licensure shall be upon the applicant. An applicant shall not be deemed to possess such qualifications unless the applicant demonstrates and evidences such qualifications in the manner prescribed by, and to the satisfaction of, the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270 and R.S. 37:3241-3257.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 12:513 (August 1986), amended LR 17:779 (August 1991).

§2309. Procedural Requirements

A. In addition to the substantive qualifications specified in §2307, to be eligible for a license, an applicant shall satisfy the procedures and requirements for application provided by §§2311 to 2315 of this Chapter and the procedures and requirements for examination administered by the board provided by §§2319 to 2333 of this Chapter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270 and R.S. 37:3241-3257.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 12:514 (August 1986)), amended LR 17:779 (August 1991).

Subchapter C. Application

§2311. Purpose and Scope

A. The rules of this Subchapter govern the procedures and requirements applicable to application to the board for licensure as a licensed midwife practitioner in the state of Louisiana.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270 and R.S. 37:3241-3257.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 12:514 (August 1986), amended LR 17:779 (August 1991).

§2313. Application Procedure

A. Application for unrestricted licensing shall be made upon forms supplied by the board.

B. An initial application must be received by the board on or before March 31 if the applicant desires to sit for the June administration of the licensure examination, or on or before August 31 if the applicant desires to sit for the December administration of the examination. Completed applications must be received by the board on or before April 30 or October 31 respectively, in order for an applicant to be eligible to sit for the June or December administration of the examination.

C. Application forms and instructions pertaining thereto may be obtained upon written request directed to the office of the board, Suite 100, 830 Union Street, New Orleans, LA, 70112. Application forms will be mailed by the board within 30 days of the board's receipt of request therefor. To ensure timely filing and completion of application, forms must be requested not later than 40 days prior to the deadlines for initial application specified in §2313.B.

D. An application for licensing under this Chapter shall include:

1. proof, documented in a form satisfactory to the board as specified by the secretary, that the applicant possesses the qualifications set forth in this Chapter;

2. three photographs of the applicant; and

3. such other information and documentation as the board may require to evidence qualification for licensing.

E. All documents required to be submitted to the board must be the original thereof. For good cause shown, the board may waive or modify this requirement.

F. The board may refuse to consider any application which is not complete in every detail, including submission of every document required by the application form. The board may, in its discretion, require a more detailed or complete response to any request for information set forth in the application form as a condition to consideration of an application.

G. Each application submitted to the board shall be accompanied by the applicable fee, as provided in Chapter 1 of these rules.

H. Upon submission of or concurrently with submission of a completed application, an applicant shall, by appointment, make a personal appearance before the board, or its designee, as a condition to the board's consideration of such application.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270 and R.S. 37:3240-3257.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 12:514 (August 1986), amended 17:779 (August 1991), LR 30:236 (February 2004).

§2315. Effect of Application

A. The submission of an application for licensing to the board shall constitute and operate as an authorization by the applicant to each educational institution at which the applicant has matriculated, each state or federal agency to which the applicant has applied for license, permit, certificate, or registration, each physician or certified nurse-midwife who has supervised the applicant's clinical experience, each person, firm, corporation, trainer, education service, or institution from whom the applicant has received instruction in the basic sciences or the theory of pregnancy and childbirth, each physician or other health care practitioner whom the applicant has consulted or seen for diagnosis or treatment and each professional organization or specialty board to which the applicant has applied for membership to disclose and release to the board any and all information and documentation concerning the application which the board deems material to consideration of the application. With respect to any such information or documentation, the submission of an application for licensing to the board shall equally constitute and operate as a consent by the applicant to the disclosure and release of such information and documentation and as a waiver by the applicant of any privilege or right of confidentiality which the applicant would otherwise possess with respect thereto.

B. By submission of an application for licensing to the board, an applicant shall be deemed to have given his or her consent to submit to physical or mental examinations if, when and in the manner so directed by the board and to waive all objections as to the admissibility or disclosure of findings, reports, or recommendations pertaining thereto on the grounds of privileges provided by law. The expense of any such examination shall be borne by the applicant.

C. The submission of an application for licensing to the board shall constitute and operate as an authorization and consent by the applicant to the board to disclose and release any information or documentation set forth in or submitted with the applicant's application or obtained by the board from other persons, firms, corporations, associations, or governmental entities pursuant to §2315.A or B to any person, firm, corporation, association, or governmental entity having a lawful, legitimate, and reasonable need therefore, including, without limitation, the midwife licensing authority of any state; the Federal Drug Enforcement Agency; the Louisiana Office of Narcotics and Dangerous Drugs, Division of Licensing and Registration, Department of Health and Hospitals; and Federal, state, county or parish, and municipal health and law enforcement agencies.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270 and R.S. 37:3241-3257.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 12:514 (August 1986), amended LR 17:779 (August 1991).

Subchapter D. Examination

§2317. Scope of Examination

A. The examination administered by the board pursuant to R.S. 37:3244.C(4) shall be administered by the board in two parts. A written examination shall be administered to test the applicant's knowledge of basic sciences, theory regarding pregnancy and childbirth, and clinical judgment in licensed midwifery management. A practical examination shall be administered to test the applicant's mastery of skills necessary for the practice of licensed midwifery.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270 and R.S. 37:3241-3257.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 12:514 (August 1986), amended LR 17:779 (August 1991).

§2319. Eligibility for Examination

A. To be eligible for examination by the board, an applicant shall possess all qualifications for licensure prescribed by §2307.A, save for the examination requirement itself. Satisfactory evidence shall include verification by the physician, or certified nurse-midwife or licensed midwife who supervised the applicant's clinical experience that the applicant has evidenced the skills essential to the practice of midwifery during her apprenticeship.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270 and R.S. 37:3241-3257.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 12:514 (August 1986), amended LR 17:779 (August 1991).

§2321. Dates, Places of Examination

A. The board's examinations are administered semiannually, in June and December, in the city of New Orleans. Applicants shall be advised of the specific dates, times, and locations of the next scheduled examination upon application to the board and may obtain such information upon inquiry to the office of the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270 and R.S. 37:3241-3257.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 12:515 (August 1986), amended LR 17:779 (August 1991).

§2323. Administration of Examination

A. The board's examinations are administered by a chief proctor, appointed by the board, and several assistant proctors. The chief proctor is authorized and directed by the board to obtain positive photographic identification from all applicants appearing and properly registered for the examination, to establish and require examinees to observe an appropriate seating arrangement, to provide appropriate instructions for taking the examination, to fix and signal the time for beginning and ending the several sections of the examination, to prescribe such additional rules and requirements as are necessary or appropriate to the taking of the examination in the interest of the examinees or the examination process, and to take all necessary and appropriate actions to secure the integrity of the examination and the examination process, including without limitation, excluding an applicant from the examination or changing an applicant's seating location at any time during the examination.

B. An applicant who appears for examination shall:

1. present to the chief proctor or his designated assistant proctor proof of registration for the examination and positive personal photographic and other identification in the form prescribed by the board; and

2. fully and promptly comply with any and all rules, procedures, instructions, directions, or requests made or prescribed by the chief proctor or any assistant proctor.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270 and R.S. 37:3241-3257.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 12:515 (August 1986), amended LR 17:779 (August 1991).

§2325. Subversion of Examination Process

A. An applicant-examinee who engages or attempts to engage in conduct which subverts or undermines the integrity of the examination process shall be subject to the sanctions specified in §2329 of this Subchapter.

B. Conduct which subverts or undermines the integrity of the examination process shall be deemed to include:

1. refusing or failing to fully and promptly comply with any rules, procedures, instructions, directions, or requests made or prescribed by the chief proctor or an assistant proctor;

2. removing from the examination room or rooms any of the examination materials;

3. reproducing or reconstructing, by copying, duplication, written notes, or electronic recording, any portion of the examination;

4. selling, distributing, buying, receiving, obtaining, or having unauthorized possession of a future, current, or previously administered examination;

5. communicating in any manner with any other examinee or any other person during the administration of the examination;

6. copying answers from another examinee or permitting one's answers to be copied by another examinee during the administration of the examination;

7. having in one's possession during the administration of the examination any materials or objects other than the examination materials distributed, including, without limitation, any books, notes, recording devices, or other written, printed, or recorded materials or date of any kind;

8. impersonating an examinee by appearing for and as an applicant and taking the examination for, as and in the name of an applicant other than himself;

9. permitting another person to appear for and take the examination on one's behalf and in one's name; or

10. engaging in any conduct which disrupts the examination or the taking thereof by other examinees.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270 and R.S. 37:3241-3257.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 12:515 (August 1986), amended LR 17:779 (August 1991).

§2327. Finding of Subversion

A. When during the administration of examination, the chief proctor or any assistant proctor has reasonable cause to believe that an applicant-examinee is engaging or attempting to engage, or has engaged or attempted to engage, in conduct which subverts or undermines the integrity of the examination process, the chief proctor shall take such action as he deems necessary or appropriate to terminate such conduct and shall report such conduct in writing to the board.

B. In the event of suspected conduct described by §2325.B.5 or 6, the subject applicant-examinee shall be permitted to complete the examination, but shall be removed at the earliest practical opportunity to a location precluding such conduct.

C. When the board, upon information provided by the chief proctor an assistant proctor, an applicant-examinee or any other person, has probable cause to believe that an applicant has engaged or attempted to engage in conduct which subverts or undermines the integrity of the examination process, the board shall so advise the applicant in writing, setting forth the grounds for its finding of probable cause, specifying the sanctions which are mandated or permitted for such conduct by §2329 of this Subchapter and provide the applicant with an opportunity for hearing pursuant to R.S. 49:955-58 and applicable rules of the board governing administrative hearings. Unless waived by the

applicant, the board's findings of fact, its conclusions of law under these rules and its decision as to the sanctions, if any, to be imposed shall be made in writing and served upon the applicant.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270 and R.S. 37:3241-3257.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 12:515 (August 1986), amended LR 17:779 (August 1991).

§2329. Sanctions for Subversion of Examination

A. An applicant who is found by the board, prior to the administration of the examination, to have engaged in conduct or to have attempted to engage in conduct which subverts or undermines the integrity of the examination process may be permanently disqualified from taking the examination and for permit to be an apprentice or for licensure as a licensed midwife practitioner in the state of Louisiana.

B. An applicant-examinee who is found by the board to have engaged or to have attempted to engage in conduct which subverts or undermines the integrity of the examination process shall be deemed to have failed the examination. Such failure shall be recorded in the official records of the board.

C. In addition to the sanctions permitted or mandated by §2329.A or B, as to an applicant-examinee found by the board to have engaged or to have attempted to engage in conduct which subverts or undermines the integrity of the examining process, the board may:

1. revoke, suspend, or impose probationary conditions on any license or permit issued to such applicant;

2. disqualify the applicant, permanently or for a specified period of time, from eligibility for permit or licensure in the state of Louisiana; or

3. disqualify the applicant, permanently or for a specified number of subsequent administrations of the examination, from eligibility for examination.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270 and R.S. 37:3241-3257.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 12:515 (August 1986), amended LR 17:779 (August 1991).

§2331. Passing Score

A. An applicant will be deemed to have successfully passed the examination if a score of at least 75 percent is attained.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270 and R.S. 37:3241-3257.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 12:515 (August 1986), amended LR 17:779 (August 1991).

§2333. Restriction, Limitation on Examinations

A. A passing score must be attained by an applicant upon completion of all sections of the examination taken during a single administration of the entire examination. An applicant who fails the examination but who meets all other requirements may retake the examination three additional times, provided, however, that an applicant who has failed the examination on two occasions shall not be eligible to take the examination thereafter until the applicant has completed not less than three months of additional educational or clinical instruction, courses, or programs as prescribed and approved by the board.

B. An applicant having failed to attain a passing score upon taking the examination four times shall not be considered for permit or licensing and shall not be eligible to take the examination again.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270 and R.S. 37:3241-3257.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 12:515 (August 1986), amended LR 17:779 (August 1991).

§2335. Lost, Stolen, or Destroyed Examinations

A. The submission of an application for examination by the board shall constitute and operate as an acknowledgment and agreement by the applicant that the liability of the board, its members, employees and agents, and the state of Louisiana to the applicant for the loss, theft, or destruction of all or any portion of an examination taken by the applicant, prior to the reporting of scores thereon, other than by intentional act, shall be limited exclusively to the refund of the fees paid for examination by the applicant.

B. In the event that one or more of the sections of the examination taken by an applicant are lost, stolen, or destroyed prior to the reporting of the applicant's scores thereon, such applicant shall be permitted by the board to sit for and take such sections at either of the next two successively scheduled administrations of the examination, and such scores or averages as the applicant attains on such sections shall be averaged with the sections on which scores were previously reported in computing the applicant's score which shall be accepted by the board notwithstanding §2333.A of this Subchapter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270 and R.S. 37:3241-3257.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 12:516 (August 1986) , amended LR 17:779 (August 1991).

Subchapter E. Restricted Licensure, Apprentice Permits

§2337. Restricted Licensure in General

A. With respect to applicants who do not meet or possess the practical experience requirements necessary for licensure, the board shall issue an apprentice permit which would authorize the applicant to obtain, under supervision, the required practical experience.

B. Receipt of an apprentice permit shall not be construed to provide any right or entitlement whatsoever to licensure as a licensed midwife practitioner or to engage in the independent practice of midwifery.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270 and R.S. 37:3241-3257.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 12:516 (August 1986), amended LR 17:779 (August 1991).

§2339. Apprentice Permits

A. An apprentice permit authorizes the permit holder to obtain the practical experience required for licensure under the supervision of a physician, certified nurse-midwife, or licensed midwife.

B. An apprentice permit shall be issued by the board to an applicant who possesses all of the qualifications for licensure as a licensed midwife specified by §2307.A.1-3 of these rules and who submits to the board, on a form furnished or approved by the board, written verification of a contractual relationship with a physician, certified nurse-midwife, or licensed midwife who shall assume responsibility for instructing and supervising the apprentice in accordance with the rules and regulations of this Chapter and of Chapter 53 of these rules.

C. A senior apprentice permit shall be issued by the board to an applicant who:

1. possesses an apprentice permit;

2. provides documentation satisfactory to the board that he or she has clinical experience equivalent to not less than one-half of the experience prescribed by §2357 of these rules; and

3. causes to be submitted to the board the written certification and opinion of the applicant's supervising physician, certified nurse-midwife, or licensed midwife that the applicant has obtained sufficient theory and supervised clinical experience under the supervision of the midwifery instructor to permit general, rather than direct, supervision of the applicant's continuing clinical experience.

D. An apprentice permit shall expire and become null and void on any date that the apprentice's relationship with his or her supervising physician, certified nurse-midwife, or licensed midwife is terminated.

E. An apprentice permit shall be issued by the board within 15 days following the meeting of the board next following the date on which all of the requisite documented evidence is received by the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270 and R.S. 37:3241-3257.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 12:516 (August 1986), amended LR 17:779 (August 1991).

Subchapter F. License Issuance, Termination, Renewal, Reinstatement

§2341. Issuance of License

A. If the qualifications, requirements, and procedures prescribed or incorporated by §§2307 to 2309 are met to the satisfaction of the board, the board shall issue to the applicant a license to engage in the practice of midwifery in the state of Louisiana.

B. A license issued under §2307 of this Chapter shall be issued by the board within 30 days following the reporting of the applicant's score on the examination.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270 and R.S. 37:3241-3257.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 12:516 (August 1986), amended LR 17:779 (August 1991).

§2343. Expiration of Licenses and Permits

A. Every license or permit issued by the board under this Chapter, the expiration date of which is not stated thereon or provided by these rules, shall expire, and thereby become null, void, and to no effect, on the last day of March of the second calendar year following the year in which such license or permit was issued.

B. The timely submission of an application for renewal of a license, or a permit, as provided by §2345 of this Chapter, shall operate to continue the expiring license or permit in full force and effect pending issuance or denial of the renewal license or permit.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270 and R.S. 37:3241-3257.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 12:516 (August 1986), amended LR 17:779 (August 1991).

§2345. Renewal of License

A. Every license issued by the board under this Chapter shall be renewed biannually on or before its date of expiration by submitting to the board an application for renewal, upon forms supplied by the board, together with the renewal fee prescribed in Chapter 1 of these rules.

B. An application for renewal of license form shall be mailed by the board to each person holding a license issued under this Chapter on or before the first day of December next preceding the date of expiration. Such form shall be mailed to the most recent address of each licensee as reflected in the official records of the board.

C. Any person who files for renewal of licensure shall present a current certification in cardiopulmonary resuscitation (CPR) of the adult and newborn and shall be required to show proof of completion of 20 contact hours of continuing education as approved by the board, in accordance with §§2361-2364 of these rules.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270 and R.S. 37:3240-3257.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 12:516 (August 1986), amended 17:779 (August 1991), LR 30:236 (February 2004).

§2347. Revocation of License

A. Except as provided by §2343.B of these rules, any license not renewed on or before its expiration date shall be revoked within 30 days of expiration following written notification by certified mail.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270 and R.S. 37:3241-3257.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 12:516 (August 1986), amended LR 17:779 (August 1991).

§2349. Reinstatement of License

A. A license which has been revoked may be reinstated upon application for reinstatement on forms supplied by the board.

B. Any person who files for licensure or reinstatement after the first day of April and before the first day of May of the year in which the license expires shall be required to pay a late fee of $50 in addition to the applicable renewal fee.

C. Any person who has not filed for renewal or reinstatement of licensure by the first day of May next following the date of expiration shall be required to pay a late fee of $100 if application for reinstatement is made within one year of the date of expiration or a fee of $200 if application for reinstatement is made within two years of the date of expiration, provided that the applicant demonstrates satisfaction of the continuing education requirements prescribed by §§2361-2364 of these rules. A midwife whose license has lapsed and expired for a period in excess of two years may apply to the board for an initial original license pursuant to the applicable rules of this Chapter.

D. Upon application to the board made within the time prescribed for renewal of licensure, a midwife practitioner's license may be placed on inactive status for a maximum of four years. During the period that a midwife practitioner's license is on inactive status, the midwife practitioner may not engage in the practice of midwifery in this state. The license of a midwife practitioner whose license is on inactive status may be reinstated to active status upon application to the board, provided that the applicant demonstrates satisfaction of the continuing education requirements prescribed by §§2361 2364 of these Rules.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270 and R.S. 37:3241-3257.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 12:516 (August 1986), amended LR 17:779 (August 1991).

Subchapter G. Education

§2351. Courses of Study

A. Every applicant seeking licensure must successfully demonstrate competency in the basic sciences of human anatomy, human physiology, biology, psychology, and nutrition, as prescribed by §2353, and complete a course on the theory of pregnancy and childbirth, in clinical instructions in midwifery.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270 and R.S. 37:3241-3257.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 12:516 (August 1986), amended LR 17:779 (August 1991).

§2353. Basic Sciences

A. Every applicant seeking licensure must, as a condition of eligibility for licensure, demonstrate cognitive competence in the basic sciences of human anatomy, human physiology, biology, psychology, and nutrition by evidencing successful completion of:

1. one college-level course in each of such subjects in an accredited college or university; or

2. such other educational instruction, courses, or programs in such subjects as may be approved by the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270 and R.S. 37:3241-3257.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 12:516 (August 1986), amended LR 17:779 (August 1991).

§2355. Theory of Pregnancy and Childbirth

A. The board shall, on the advice of the Louisiana Advisory Committee on Midwifery, maintain and periodically revise a list of approved courses, texts, and trainers covering the subject matters which shall comprise a course of study in the theory of pregnancy and childbirth. The board may use the list as a guideline in determining the acceptability of a non-listed educational source which an applicant submits as complying with any required subject matter. All or part of the course may be obtained through self-study.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270 and R.S. 37:3241-3257.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 12:516 (August 1986), amended LR 17:779 (August 1991).

§2357. Clinical Experience

A. Clinical experience in midwifery is required of every applicant for licensure and may be obtained in a variety of settings, including medical offices, clinics, hospitals, maternity centers, and in the home. Clinical experience must include instruction in basic nursing skills, including vital signs, perineal preparation, enema, urethral catheterization, asceptic techniques, administration of medication orally and by injection, local infiltration for anesthesia, administration of intravenous fluids, venipuncture, infant and adult resuscitation, fetal heart tones, edema, routine urinalysis, and currting and repair of epesiotomy.

B. The clinical experience requisite to licensure shall include care of women in the antepartum, intrapartum, and postpartum periods. Clinical practice must include at least the following types of numbers of experiences (with out-of-hospital births making up at least one-half of the clinical experience):

1. 100 prenatal visits on at least 25 different women;

2. attendance at the labor and delivery of at least 15 live births as an observer or assistant attendant;

3. management of the labor and delivery of newborn and placenta for at least 15 births as the primary birth attendant;

4. 25 newborn examinations;

5. 25 postpartum evaluations of mother and baby in home or hospital within 36 hours of delivery;

6. five repairs of lacerations in addition to any practice on non-human subjects;

7. five observations of in-house births involving high-risk obstetric care, provided, however, that this requirement may be waived by the board upon demonstration and documentation by the applicant that opportunity for such observations was not reasonably available to the applicant notwithstanding the applicant's diligent, good faith efforts to obtain opportunity for such observations; and

8. observation of one complete series of at least six prepared childbirth classes offered by an approved provider.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270 and R.S. 37:3241-3257.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 12:517 (August 1986), amended LR 17:779 (August 1991).

§2359. Supervision of Clinical Experience

A. Apprentice licensed midwife practitioners must obtain their clinical experience under the immediate personal supervision of a physician, certified nurse-midwife, or a licensed midwife.

B. Senior apprentice midwives may obtain the clinical experience requisite to licensure under the direction and general supervision of a physician, certified nurse-midwife, or licensed midwife.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270 and R.S. 37:3241-3257.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 12:517 (August 1986), amended LR 17:779 (August 1991).

Subchapter H. Continuing Education

§2361. Scope of Subchapter; Continuing Education Requirement

A. The rules of this Subchapter provide standards for the continuing education requisite to renewal of renewal of any license or permit issued under this Chapter, as required by R.S. 37:3245 and §2345 of these rules, and prescribe the procedures applicable to documentation of continuing education in connection with application for renewal of licensure or permit.

B. To be eligible for renewal of licensure or apprentice permit, a licensed midwife or apprentice midwife shall document, upon forms supplied by the board, successful completion of not less than 20 contact hours of continuing education obtained since such license or permit was last issued, reinstated, or renewed. As used in this Subchapter, "contact hour" means 50 to 60 minutes of participation in an organized learning experience under responsible sponsorship, capable direction, and qualified instruction, as approved by the board, or two hours of planned and supervised clinical practice designed to meet professional educational objectives.

C. To be acceptable as qualified continuing education under these rules, an activity or program must have significant intellectual, practical, or clinical content, dealing primarily with matters related to midwifery, and its primary objective must be to maintain or increase the participant's competence as a midwife.

D. The following programs and activities are illustrative of the types of programs and activities which shall be deemed to be qualifying continuing education activities and programs for purposes of this Subchapter, provided, in each case, that the activity or program meets the standards prescribed by §2361.A:

1. attendance at or participation in meetings, conferences, workshops, seminars, or courses, such as programs conducted, sponsored, or approved for continuing education credit by the American Medical Association, the American College of Obstetricians and Gynecologists, the American Nurse Association, the Association of Certified Nurse Midwives, and the Midwives Alliance of North America;

2. presentation or conduct of a course, seminar, or workshop sponsored by an organization or entity approved by the board, provided that such presentation is accompanied by thorough written materials or a comprehensive outline relating to the course, seminar, or workshop;

3. teaching of a course in or directly related to midwifery at an accredited educational institution, provided that such teaching is not performed in the ordinary course of the licensed midwife's or apprentice midwife's usual and ordinary employment;

4. publication, in a national, regional, or statewide scientific journal or other publication of a related profession, of an original written work, related to the maintenance or improvement of midwifery knowledge or skills;

5. completion of a course of postsecondary, graduate, or postgraduate study undertaken and completed at an accredited educational institution;

6. assuming responsibility for and discharging supervision of an apprentice for not less than six months.

E. The Louisiana Advisory Committee on Midwifery (the "Advisory Committee") shall have the authority and responsibility to:

1. evaluate organizations and entities providing or offering to provide continuing education programs for licensed midwives and apprentice midwives and provide recommendations to the board with respect to the board's recognition and approval of such organizations and entities as sponsors of qualifying continuing education programs and activities;

2. review documentation of continuing education by licensed midwives and apprentice midwives, verify the accuracy of such information, and evaluate and make recommendations to the board with respect to whether programs and activities evidenced by applicants for renewal of certification comply with and satisfy the standards for such programs and activities prescribed by these rules; and

3. request and obtain from applicants for renewal of licenses and permits such additional information as the Advisory Committee may deem necessary or appropriate to enable it to make the evaluations and provide the recommendations for which the Advisory Committee is responsible.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270 and R.S. 37:3241-3257.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 12:517 (August 1986), amended LR 17:779 (August 1991).

§2362. Documentation Procedure

A. A form for documenting and certifying the completion of continuing education as required by these rules shall be mailed by the board to each licensed midwife and apprentice midwife subject to continuing education requirements with the application for renewal of license/permit form. Such form shall be completed and delivered to the board with the licensed midwife's or apprentice midwife's renewal application.

B. Certification of continuing education activities shall be referred to the Advisory Committee for its evaluation and recommendations pursuant to §2361.E.2. If the Advisory Committee determines that an activity certified by an applicant for renewal in satisfaction of continuing education requirements does not qualify for recognition by the board or does not qualify for the number of continuing education contact hours claimed by the applicant, the board shall give notice of such determination to the applicant for renewal and the applicant may appeal the Advisory Committee's recommendation to the board by written request delivered to the board within 10 days of such notice. The board's decision with respect to approval and recognition of any such activity shall be final.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270 and R.S. 37:3241-3257.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 17:779 (August 1991).

§2363. Failure to Satisfy Continuing Education Requirements

A. An applicant for renewal of a license or permit who fails to evidence satisfaction of the continuing education requirements prescribed by these rules shall be given written notice of such failure by the board. The license or permit of the applicant shall remain in full force and effect for a period of 60 days following the mailing of such notice, following which it shall be deemed expired, unrenewed, and subject to revocation without further notice, unless the applicant shall have, within such 60 days, furnished the board satisfactory evidence, by affidavit, that:

1. the applicant has satisfied the applicable continuing education requirements;

2. the applicant is exempt from such requirements pursuant to these rules; or

3. the applicant's failure to satisfy the continuing education requirements was occasioned by disability, illness, or other good cause as may be determined by the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270 and R.S. 37:3241-3257.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 17:779 (August 1991).

§2364. Waiver of Requirements

A. The board may, in its discretion and upon the recommendation of the Advisory Committee, waive all or part of the continuing education required by these rules in favor of a licensed midwife or apprentice midwife who makes written request for such waiver to the board and evidences to the satisfaction of the board a permanent physical disability, illness, financial hardship, or other similar extenuating circumstances precluding satisfaction of the continuing education requirements.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270 and R.S. 37:3241-3257.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 17:779 (August 1991).

Subchapter I. Prohibitions and Revocation of License

§2365. Unlawful Practice

A. No person shall use in connection with his or her name or place of business the words "licensed midwife," "licensed midwife practitioner," the initials "LM," "LMP" or any other words, letters, or insignia indicating or implying that he or she is a licensed midwife practitioner or represent himself or herself as such in any way orally, in writing, in print, or by sign directly or by implication unless he or she has been licensed as such under the provisions of these regulations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270 and R.S. 37:3241-3257.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 12:517 (August 1986), amended LR 17:779 (August 1991).

§2367. Revocation of License

A. The board may refuse to issue, suspend for a definite period, or revoke a license for any of the following causes:

1. dereliction of any duty imposed by law;

2. incompetence as determined by local midwifery standards;

3. conviction of a felony;

4. practicing while suffering from a communicable disease, as defined by R.S. 2:0001, which may be spread to a pregnant woman or to her newborn child during delivery or after birth;

5. practicing under a false name or alias;

6. violation of any of the standards of practice set forth herein;

7. obtaining any fee by fraud or misrepresentation;

8. knowingly employing, supervising, or permitting, directly or indirectly, any person or persons not an apprentice or licensed midwife to perform any work covered by these regulations;

9. using or causing or promoting the use of any advertising matter, promotional literature, testimonial, or any other representation, however disseminated or published, which is misleading or untruthful;

10. representing that the service or advice of a person licensed to practice medicine will be used or made available when that is not true or using the words "doctor," or similar words, abbreviations, or symbols so as to connote the medical profession, when such is not the case;

11. permitting another to use the license;

12. delinquency in submission of application and supporting documents for license renewal of 30 days or more;

13. obtaining licensure by means of fraud, misrepresentation, or concealment of material facts;

14. fraud or deceit in connection with services rendered; or

15. violating any lawful order, rule, or regulation rendered or adopted by the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270 and R.S. 37:3241-3257.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 12:517 (August 1986), amended LR 17:779 (August 1991).

§2369. Penalties

A. If a person licensed to practice midwifery under the provisions of these regulations is found guilty of violating any provisions of these regulations, the board may fine the midwife a sum of not more than $1,000 and may suspend or revoke the license of the midwife practitioner.

B. The board may cause an injunction to be issued in any court of competent jurisdiction enjoining any person from violating the provisions of these regulations. In a suit for injunction, the court may issue a fine of not less than $100 against any person found in violation of the provisions of these regulations plus court costs and attorney's fees.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270 and R.S. 37:3241-3257.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 12:517 (August 1986), amended LR 17:779 (August 1991).

§2371. Hearing

A. Any person who is disciplined or denied a license or has a license suspended or revoked or is otherwise penalized under these regulations will be notified in writing and afforded the opportunity of a hearing conducted pursuant to the Louisiana Administrative Procedure Act.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270 and R.S. 37:3241-3257.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 12:518 (August 1986), amended LR 17:779 (August 1991).

§2373. Persons Not Affected

A. Any person authorized by the Louisiana State Board of Nursing to practice as a certified nurse-midwife in the state shall not be affected by the provisions of these regulations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270 and R.S. 37:3241-3257.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 12:518 (August 1986), amended LR 17:779 (August 1991).

Chapter 25. Respiratory Therapists and Respiratory Therapy Technicians

Subchapter A. General Provisions

§2501. Scope of Chapter

A. The rules of this Chapter govern the licensing of certified and registered respiratory therapists in the State of Louisiana.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(B)(6) and R.S. 37:3351-3361.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 12:767 (November 1986), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 25:2212 (November 1999).

§2503. Definitions

A. As used in this Chapter, unless the context clearly states otherwise, the following terms and phrases shall have the meanings specified.

Applicant a person who has applied to the board for licensure as a licensed registered respiratory therapist or a licensed certified respiratory therapist.

Board the Louisiana State Board of Medical Examiners.

Certified Respiratory Therapist also known as Certified Respiratory Therapy Technician, prior to July 1, 1999, means one who has successfully completed the entry level examination or its successor administered by the National Board for Respiratory Care.

Chest Pulmonary Therapy (CPT) chest percussion, postural drainage, chest clapping, chest vibrations, bronchopulmonary hygiene and cupping, positive expiratory therapy (PEP), deep breathing/cough exercise, and inspiratory muscle training.

Good Moral Character as applied to an applicant, means that an applicant has not, prior to or during the pendency of an application to the board, been guilty of any act, omission, condition or circumstance which would provide legal cause under R.S. 37:3358 for the denial,

suspension or revocation of respiratory care licensure; the applicant has not, prior to or in connection with his application, made any representation to the board, knowingly or unknowingly, which is in fact false or misleading as to material fact or omits to state any fact or matter that is material to the application; and the applicant has not made any representation or failed to make a representation or engaged in any act or omission which is false, deceptive, fraudulent or misleading in achieving or obtaining any of the qualifications for a license required by this Chapter.

Licensed Respiratory Therapist a person who is licensed by the board and has the lawful authority to engage in the practice of respiratory care in the state of Louisiana, only under the qualified medical direction and supervision of a licensed physician, as evidenced by certificate duly issued by and under the official seal of the board. The term *licensed respiratory therapist* shall signify both certified respiratory therapist and registered respiratory therapist.

Medical Gases gases commonly used in a respiratory care department in the calibration of respiratory care equipment (nitrogen, oxygen, compressed air and carbon dioxide), in the diagnostic evaluation of diseases (carbon monoxide, nitrogen, carbon dioxide, helium and oxygen) and in the therapeutic management of diseases (nitrogen, carbon dioxide, helium, oxygen and compressed air).

National Board for Respiratory Care the official credentialing board of the profession, or its successor.

Nontraditional Respiratory Care Education Program a program of studies primarily through correspondence with tutorial assistance and with a clinical component comparable to a traditional program.

Physician a person who is currently licensed by the board to practice medicine in the state of Louisiana.

Registered Respiratory Therapist one who has successfully completed the Advanced Practitioner Examination or its successor administered by the National Board for Respiratory Care.

Respiratory Care the allied health specialty practiced under the direction, supervision and approval of a licensed physician involving the treatment, testing, monitoring, and care of persons with deficiencies and abnormalities of the cardiopulmonary system. Such therapy includes, but is not limited to, the following activities conducted upon written prescription or verbal order of a physician and under his supervision:

a. application and monitoring of oxygen, ventilatory therapy, bronchial hygiene therapy, cardiopulmonary rehabilitation, and resuscitation;

b. insertion and care of airways as ordered by a physician;

c. institution of any type of physiologic monitoring applicable to respiratory care;

d. administration of drugs and medications commonly used in respiratory care that have been prescribed by a physician to be administered by qualified respiratory care personnel;

e. initiation of treatment changes and testing techniques required for the implementation of respiratory care protocols as directed by a physician;

f. administration of medical gases and environmental control systems and their apparatus;

g. administration of humidity and aerosol therapy;

h. application of chest pulmonary therapy;

i. the institution of known and physician-approved patient driven protocols relating to respiratory care under physician approval in emergency situations in the absence of immediate direction by a physician;

j. application of specific procedures and diagnostic testing as ordered by the physician to assist in diagnosis, monitoring, treatment, and research, including those procedures required and directed by the physician for the drawing of blood samples to determine acid-base status and blood gas values, the collection of sputum for analysis of body fluids, and the measurement of cardiopulmonary functions as commonly performed in respiratory therapy, and the starting of intravenous lines for the purpose of administering fluids as pertinent to the practice of respiratory care under the supervision of a licensed physician;

k. supervision of other respiratory therapy personnel; and

l. transcription and implementation of the written and verbal orders of a physician.

Respiratory Therapy Practice Act or *the Act* Acts 1985, Number 408, as amended, R.S. 37:3351-3361;

United States Government any department, agency or bureau of the United States Armed Forces or Veterans Administration.

B. Respiratory care shall also include teaching patient and family respiratory care procedures as part of a patient's ongoing program and consultation services or for health, educational, and community agencies under the order of a licensed physician.

C. Masculine terms wherever used in this Chapter shall also be deemed to include the feminine.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(B)(6) and R.S. 37:3351-3361.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 12:767 (November 1986), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 19:744 (June 1993), LR 25:2212 (November 1999).

Subchapter B. Requirements and Qualifications for Licensure

§2505. Scope of Subchapter

A. The Rules of this Subchapter govern and prescribe the requirements, qualifications and conditions requisite to eligibility for licensure as a licensed respiratory therapist in the state of Louisiana.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(B)(6) and R.S. 37:3351-3361.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 12:767 (November 1986), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 25:2213 (November 1999).

§2507. Requirements for Licensure of Registered Respiratory Therapist

A. To be eligible and qualified to obtain a registered respiratory therapist license, an applicant shall:

1. be at least 18 years of age;

2. be of good moral character;

3. be a high school graduate or have the equivalent of a high school diploma;

4. possess current credentials as a registered respiratory therapist granted by the National Board of Respiratory Care, or its successor organization or equivalent approved by the board, on the basis of written examination;

5. be a citizen of the United States or possess valid and current legal authority to reside and work in the United States duly issued by the Commissioner of Immigration and Naturalization Service of the United States under and pursuant to the Immigration and Nationality Act (66 Stat. 163) and the commissioner's regulations thereunder (8 C.F.R.);

6. satisfy the applicable fees as prescribed by Chapter 1 of these rules;

7. satisfy the procedures and requirements for application provided by §§2515 to 2519 of this Chapter; and

8. not be otherwise disqualified for licensure by virtue of the existence of any grounds for denial of licensure as provided by the law or in these rules.

B. The burden of satisfying the board as to the qualifications and eligibility of the applicant for licensure shall be upon the applicant. An applicant shall not be deemed to possess such qualifications unless the applicant demonstrates and evidences such qualification in the manner prescribed by and to the satisfaction of the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(B)(6) and R.S. 37:3351-3361.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 12:767 (November 1986), amended LR 14:87 (February 1988), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 15:271 (April 1989), LR 17:479 (May 1991), LR 25:2213 (November 1999).

§2509. Requirements for Licensure of Certified Respiratory Therapists

A. To be eligible and qualified to obtain a certified respiratory therapist license, an applicant shall:

1. be at least 18 years of age;

2. be of good moral character;

3. be a high school graduate or have the equivalent of a high school diploma;

4. have successfully completed:

a. a traditional respiratory care education program then accredited by the Commission on Accreditation of Allied Health Education Programs, or its successor, in collaboration with the Committee on Accreditation for Respiratory Care; or

b. a nontraditional respiratory care education program then accredited by the Commission on Accreditation of Allied Health Education Programs, or its successor, in collaboration with the Committee on Accreditation for Respiratory Care which was conducted in accordance with the provisions of §2510 of this Chapter;

5. possess at least one of the following credentials:

a. current credentials as a certified respiratory therapist granted by the National Board for Respiratory Care, or its successor organization or equivalent approved by the board, on the basis of written examination; or

b. have taken and successfully passed the examination administered by the board as further detailed in §§2521 to 2537 of this Chapter; provided, however, that an applicant who has failed such examination four times shall not thereafter be eligible for licensure in Louisiana; or

c. a temporary license in accordance with the provisions of §2547 of these Rules and who has taken and passed the licensing examination administered by the board; provided, however, that an applicant who has failed such examination four times shall not thereafter be eligible for licensure in Louisiana;

6. be a citizen of the United States or possess valid and current legal authority to reside and work in the United States duly issued by the Commissioner of Immigration and Naturalization Service of the United States under and pursuant to the Immigration and Nationality Act (66 Stat. 163) and the Commissioner's regulations thereunder (8 C.F.R.);

7. satisfy the applicable fees as prescribed by Chapter 1 of these Rules;

8. satisfy the procedures and requirements for application provided by §§2515 to 2519 of this Chapter and, if applicable, the procedures and requirements for examination provided by §2521 to §2537 of this Chapter; and

9. not be otherwise disqualified for licensure by virtue of the existence of any grounds for denial of licensure as provided by the law or in these Rules.

B. The burden of satisfying the board as to the qualifications and eligibility of the applicant for licensure shall be upon the applicant. An applicant shall not be deemed to possess such qualifications unless the applicant demonstrates and evidences such qualification in the manner prescribed by and to the satisfaction of the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(B)(6) and R.S. 37:3351-3361.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 12:767 (November 1986), amended LR 14:87 (February 1988), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 15:271 (April 1989), LR 17:479 (May 1991), LR 19:745 (June 1993), LR 25:2213 (November 1999).

§2510. Conduct of Nontraditional Training Programs

A. To qualify an applicant for licensure as a certified respiratory therapist pursuant to §2509.A.4.b, a nontraditional respiratory care education program must be conducted in accordance with the following standards.

1. A certified respiratory therapist student participating in such a program must be concurrently enrolled in a respiratory care education program of a school or college accredited by the Commission on Accreditation of Allied Health Education Programs, or its successor, in collaboration with the Committee on Accreditation for Respiratory Care.

2. The hospital furnishing tutorial assistance, testing, clinical training and similar services for the benefit of the student must:

a. have a written affiliation agreement with the accredited program;

b. designate a training coordinator who shall have had prior experience in a formal respiratory care educational environment with at least five years clinical experience in respiratory care and who shall be a licensed respiratory therapist or a physician who actively practices respiratory care;

c. provide for tutorial assistance and supervision of the student's clinical activities to be provided by a licensed respiratory therapist or a physician who actively practices respiratory care; and

d. be able to provide students with an opportunity to observe and participate in respiratory care procedures adequate in number and type to support the clinical training of entry level therapists relative to the number of students admitted to and participating in such training.

3. A student providing respiratory care to patients as permitted by R.S. 37:3361(3) in the course of a student's clinical training shall be supervised in accordance with the provisions of §5515 of these Rules and shall be identified to patients and licensed practitioners by title or otherwise which clearly designates the student's status as a student or trainee.

B. A nontraditional respiratory care education program which does not conform to and apply the standards prescribed in §2510.A shall not be considered by the board to qualify as an applicant for licensure under §2509.A.4.b.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37: 1270(B)(6) and R.S. 37:3351-3361.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 19:746 (June 1993), amended LR 25:2214 (November 1999).

§2511. Licensure by Reciprocity

A. A person who possesses and meets all of the qualifications and requirements for licensure specified in §2507 of this Chapter, save for possessing current credentials as a registered respiratory therapist as prescribed in §2507.A.4, shall nonetheless be deemed qualified for licensure, as a registered respiratory therapist, provided that such person presents proof of current licensure as a registered respiratory therapist in another state, the District of Columbia, a territory of the United States, or another country which requires standards for licensure considered by the board to exceed or to be equivalent to the requirements for licensure under this Chapter, provided such state, district, territory, or country accord similar privileges of licensure to persons who have been granted their licenses under the provisions of this Chapter.

B. A person who possesses and meets all of the qualifications and requirements for licensure specified by §2509, save for successfully passing the licensure examination administered by the board or save for possessing current credentials as a certified respiratory therapist as prescribed in §2509.A.4.a, shall nonetheless be deemed qualified for licensure as a certified respiratory therapist provided that such person presents proof of current licensure as a certified respiratory therapist in another state, the District of Columbia, a territory of the United States, or another country which requires standards for licensure considered by the board to exceed or to be equivalent to the requirements for licensure under this Chapter, provided such state, district, territory, or country accord similar privileges of licensure to persons who have been granted their licenses under the provisions of this Chapter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(B)(6) and R.S. 37:3351-3361.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 12:767 (November 1986), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 25:2214 (November 1999).

§2513. Temporary License

A. The board may issue a temporary license as a licensed respiratory therapist to an applicant who possesses and meets all of the qualifications and requirements specified in §2547.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(B)(6) and R.S. 37:3351-61.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 12:767 (November 1986), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 25:2214 (November 1999).

Subchapter C. Application

§2515. Purpose and Scope

A. The rules of this Subchapter govern the procedures and requirements applicable to application to the board for licensure of a licensed respiratory therapist in the state of Louisiana.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(B)(6) and R.S. 37:3351-3361.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 12:767 (November 1986), amended, Department of Health and Hospitals, Board of Medical Examiners, LR 25:2215 (November 1999).

§2517. Application Procedure

A. Application for licensure shall be made upon forms prescribed and supplied by the board.

B. If application is made for licensure of a certified respiratory therapist on the basis of examination to be administered by the board, an initial application must be received by the board not less than 90 days prior to the scheduled date of the examination for which the applicant desires to sit (see Subchapter D of this Chapter respecting dates and places of examination). A completed application must be received by the board not less than 60 days prior to the scheduled date of such examination.

C. Application for licensure as a certified respiratory therapist based upon qualifications not requiring written examination administered by the board, or an application for licensure as a registered respiratory therapist may be made at any time.

D. Application forms and instructions pertaining thereto may be obtained upon personal request at or written request directed to the office of the Louisiana State Board of Medical Examiners, 630 Camp Street, New Orleans, LA 70130. Application forms will be mailed by the board within 30 days of the board's receipt of a request therefor. To ensure timely filing and completion of applications, forms must be requested not later than 40 days prior to the deadlines for initial applications specified in §2517.B.

E. An application for licensure under this Chapter shall include:

1. proof, documented in a form satisfactory to the board, that the applicant possesses the qualifications for licensure set forth in this Chapter;

2. one recent photograph of the applicant; and

3. such other information and documentation as is referred to or specified in this Chapter or as the board may require to evidence qualification for licensure.

F. An application for licensure of a certified respiratory therapist on the basis of examination shall include all documents prescribed by the National Board for the Respiratory Care entry level examination and any other information and documentation deemed necessary by the board.

G. All documents required to be submitted to the board must be the original thereof. For good cause shown, the board may waive or modify this requirement.

H. The board may refuse to consider any application which is not complete in every detail, including submission of every document required by the application form. The board may, at its discretion, require a more detailed or complete response to any request for information set forth in the application form as a condition to consideration of an application.

I. Each application submitted to the board shall be accompanied by the applicable fee, as provided in Chapter 1 of these Rules as established by the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37: 1270(B)(6) and R.S. 37:3351-3361.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 12:767 (November 1986), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 25:2215 (November 1999).

§2519. Effect of Application

A. The submission of an application for licensure to the board shall constitute and operate as an authorization by the applicant to each educational institution at which the applicant has matriculated, each governmental agency to which the applicant has applied for any license, permit, certificate or registration, each person, firm, corporation, organization or association by whom or with whom the applicant has been employed as a registered respiratory therapist or certified respiratory therapist, each physician whom the applicant has consulted or seen for diagnosis or treatment, and each professional or trade organization to which the applicant has applied for membership, to disclose and release to the board any and all information and documentation concerning the applicant which the board deems material to consideration of the application. With respect to any such information or documentation, the submission of an application for licensure to the board shall equally constitute and operate as a consent by the applicant to disclosure and release of such information and documentation as a waiver by the applicant of any privileges or right of confidentiality which the applicant would otherwise possess with respect thereto.

B. By submission of an application for licensure to the board, an applicant shall be deemed to have given his consent to submit to physical or mental examinations if, when, and in the manner so directed by the board if the board has reasonable grounds to believe that the applicant's capacity to act as a registered respiratory therapist or certified respiratory therapist with reasonable skill or safety may be compromised by physical or mental condition, disease or infirmity, and the applicant shall be deemed to have waived all objections as to the admissibility or disclosure of findings, reports or recommendations pertaining thereto on the grounds of privileges provided by law.

C. The submission of an application for licensure to the board shall constitute and operate as an authorization and consent by the applicant to the board to disclose any information or documentation set forth in or submitted with the applicant's application or obtained by the board from other persons, firms, corporations, associations or governmental entities pursuant to this Section, to any person, firm, corporation, association or governmental entity having a lawful, legitimate and reasonable need therefor, including, without limitation, the respiratory care licensing authority of any state, the National Board for Respiratory Care, the Louisiana Department of Health and Hospitals, state, county or parish and municipal health and law enforcement agencies and the armed services.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(B)(6) and R.S. 37:3351-3361.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 12:767 (November 1986), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 25:2215 (November 1999).

Subchapter D. Examination

§2521. Purpose and Scope

A. The Rules of this Subchapter govern the procedures and requirements applicable to the examination as administered by the board for the licensure of certified respiratory therapists.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(B)(6) and R.S. 37:3351-3361.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 12:767 (November 1986), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 25:2216 (November 1999).

§2523. Designation of Examination

A. The examination administered and accepted by the board pursuant to R.S. 37:3354 is the National Board for Respiratory Care entry level examination or its successor, developed by the National Board for Respiratory Care.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(B)(6) and R.S. 37:3351-3361.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 12:767 (November 1986), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 25:2216 (November 1999).

§2525. Eligibility for Examination

A. To be eligible for examination by the board, an applicant shall possess all qualifications for licensure as a certified respiratory therapist prescribed by this Chapter save for having successfully completed the examination; provided, however, that an applicant who has completed, or prior to the next scheduled examination will complete the traditional respiratory care program required by §2509.A.4 of this Chapter, but who does not yet possess evidence of such completion shall be deemed eligible for examination upon submission to the board of a letter subscribed by the director of the approved program certifying that the applicant has completed the applicable program or will have completed such program prior to the board's next scheduled examination and specifying the date on which such curriculum will be completed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(B)(6) and R.S. 37:3351-3361.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 12:767 (November 1986), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 25:2216 (November 1999).

§2527. Dates, Places of Examination

A. The board's licensure examination is administered at least annually by the National Board for Respiratory Care in the city of New Orleans. The applicants shall be advised of the specific date, time and location of the next scheduled examination upon application to the board and may obtain such information upon inquiry to the office of the Louisiana State Board of Medical Examiners.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(B)(6) and R.S. 37:3351-3361.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 12:767 (November 1986), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 25:2216 (November 1999).

§2529. Administration of Examination

A. The board's licensure examination is administered by a chief proctor, appointed by the board, and one or more assistant proctors. The chief proctor is authorized and directed by the board to obtain positive photographic identification from all applicants appearing and properly registered for the examination, to establish and require examinees to observe an appropriate seating arrangement, to provide appropriate instructions for taking the examination, to fix and signal the time for beginning and ending the examination or the section thereof, to prescribe such additional rules and requirements as are necessary or appropriate to the taking of the examination in the interest of the examinees or the examination process, and to take all necessary and appropriate actions to secure the integrity of the examination and the examination process, including, without limitation, excusing an applicant for the examination or changing an applicant's seating location at any time during the examination.

B. An applicant who appears for examination shall:

1. present to the chief proctor or his designated assistant proctor proof of registration for the examination and positive personal photographic identification in the form prescribed by the board; and

2. fully and promptly comply with any and all rules, procedures, instructions, directions or requests made or prescribed by the chief proctor.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(B)(6) and R.S. 37:3351-3361.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 12:767 (November 1986), repromulgated by Department of Health and Hospitals, Board of Medical Examiners, LR 25:2216 (November 1999).

§2531. Subversion of Examination Process

A. An applicant-examinee who engages or attempts to engage in conduct which subverts or undermines the integrity of the examination process shall be subject to the sanctions specified in §2535 of this Chapter.

B. Conduct which subverts or undermines the integrity of the examination process shall be deemed to include:

1. refusing or failing to fully and promptly comply with any rules, procedures, instructions, directions or requests made by the chief proctor or an assistant proctor;

2. removing from the examination room or rooms any of the examination materials;

3. reproducing or reconstructing, by copying, duplication, written notes or electronic recording, any portion of the licensure examination;

4. selling, distributing, buying, receiving, obtaining or having unauthorized possession of a future, current, or previously administered licensure examination;

5. communicating in any manner with any other examinee or any other person during the administration of the examination;

6. copying answers from another examinee or permitting one's answers to be copied by another examinee during the administration of the examination;

7. having in one's possession during the administration of the examination any materials or objects other than the examination materials distributed, including, without limitation, any books, notes, recording devices, or other written, printed or recorded materials or data of any kind;

8. impersonating an examinee by appearing for and as an applicant and taking the examination for, as and in the name of an applicant other than himself;

9. permitting another person to appear for and take the examination on one's behalf and in one's name; or

10. engaging in any conduct which disrupts the examination or the taking thereof by other examinees.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(B)(6) and R.S. 37:3351-3361.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 12:767 (November 1986), repromulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 25:2216 (November 1999).

§2533. Finding of Subversion

A. When, during the administration of examination, the chief proctor or any assistant proctor has reasonable cause to believe that an applicant-examinee is engaging or attempting to engage, or has engaged or attempted to engage, in conduct which subverts or undermines the integrity of the examination process, the chief proctor shall take such action as he deems necessary or appropriate to terminate such conduct and shall report such conduct in writing to the board.

B. In the event of suspected conduct described in §2531.B.5 or 6, the subject applicant-examinee shall be permitted to complete the examination, but shall be removed at the earliest practical opportunity to a location precluding such conduct.

C. When the board, upon information provided by the chief proctor, an assistant proctor, an applicant-examinee or any other person, has probable cause to believe that an applicant has engaged or attempted to engage in conduct which subverts or undermines the integrity of the examination process, the board shall so advise the applicant in writing, setting forth the grounds for its finding of probable cause, specifying the sanctions which are mandated or permitted for such conduct by §2535 of this Subchapter and provide the applicant with an opportunity for hearing pursuant to R.S. 49:9955-58 and applicable rules of the board governing administrative hearings. Unless waived by the applicant, the board's findings of fact, conclusions of law under these rules, and its decision as to the sanctions, if any, to be imposed shall be made in writing and served upon the applicant.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(B)(6) and R.S. 37:3351-3361.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 12:767 (November 1986), repromulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 25:2217 (November 1999).

§2535. Sanctions for Subversion of Examination

A. An applicant who is found by the board, prior to the administration of the examination, to have engaged in conduct or to have attempted to engage in conduct which subverts or undermines the integrity of the examination process shall be permanently disqualified from taking the examination and from licensure in the state of Louisiana.

B. An applicant-examinee who is found by the board to have engaged or to have attempted to engage in conduct which subverts or undermines the integrity of the examination process shall be deemed to have failed the examination. Such failure shall be recorded in the official records of the board with reasons given for such failure.

C. In addition to the sanctions permitted or mandated by §2535.A and B, as to an applicant-examinee found by the board during the examination to have engaged or to have attempted to engage in conduct which subverts or undermines the integrity of the examination process, the board may:

1. revoke licensure issued to such applicant;

2. disqualify the applicant, permanently or for a specified period of time, from eligibility for licensure in the state of Louisiana; or

3. disqualify the applicant, permanently or for a specified number of subsequent administrations of the examination, from eligibility for examination.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(B)(6) and R.S. 37:3351-3361.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 12:767 (November 1986), repromulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 25:2217 (November 1999).

§2536. Restriction, Limitation on Examination

A. With respect to any written examination administered by the board the successful passage of which is a condition to any license or permit issued under this Chapter, an applicant having failed to obtain a passing score upon taking any such examination four times shall not thereafter be considered eligible for licensing.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(B)(6) and R.S. 37:3351-3361.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 12:767 (November 1986), amended LR 14:87 (February 1988), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 17:479 (May 1991), LR 25:2217 (November 1999).

§2537. Passing Score, Reporting of Examination Scores

A. An applicant will be deemed to have successfully passed the examination if he attains a score equivalent to that required by the National Board for Respiratory Care as a passing score; provided, however, that with respect to any given administration of the examination, the board may determine to accept a lower or higher score as passing. Applicants for licensure shall be required to authorize the National Board for Respiratory Care to release their test scores to the board each time the applicant-examinee attempts the examination according to the procedures for such notification established by the National Board for Respiratory Care.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(B)(6) and R.S. 37:3351-3361.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 12:767 (November 1986), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 25:2217 (November 1999).

§2539. Lost, Stolen, or Destroyed Examinations

A. The submission of an application for examination by the board shall constitute and operate as an acknowledgment and agreement by the applicant that the liability of the board, its members, committees, employees and agents, and the state of Louisiana to the applicant for the loss, theft or destruction of all or any portion of an examination taken by the applicant, prior to the reporting of scores, thereon by the board or the National Board for Respiratory Care, shall be limited exclusively to the refund of the fees paid for examination by the applicant.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(B)(6) and R.S. 37:3351-3361.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 12:767 (November 1986), repromulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 25:2218 (November 1999).

Subchapter E. Licensure Issuance, Termination, Renewal, Temporary Issuance and Reinstatement

§2540. Issuance of License

A. If the qualifications, requirements and procedures prescribed or incorporated by §§2507, 2509 or 2511 are met to the satisfaction of the board, the board shall issue to the applicant a license evidencing the applicant's licensure as a registered respiratory therapist or a certified respiratory therapist in the state of Louisiana.

B. A license issued by the board on the basis of examination by the board shall be issued by the board within 30 days following the reporting of the applicant's license examination scores to the board. A license issued to an applicant not required to be examined by the board shall be issued by the board within 15 days following the meeting of the board next following the date on which the applicant's application, evidencing all requisite qualifications, is completed in every respect.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(B)(6) and R.S. 37:3351-3361.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 25:2218 (November 1999).

§2541. Expiration of License

A. Every license issued by the board under this Chapter to be effective on or after January 1, 1999, and each year thereafter, shall expire, and thereby become null, void and to no effect the following year on the first day of the month in which the licensee was born.

B. The timely submission of an application for renewal of a license as provided by §2543 hereof shall operate to continue the expiring license in force and effect pending the board's issuance, or denial of issuance, of the renewal license.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(B)(6) and R.S. 37:3351-3361.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 12:767 (November 1986), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 22:1218 (December 1996), LR 24:1502 (August 1998), LR 25:2218 (November 1999).

§2543. Renewal of License

A. Every license issued by the board under this Subchapter shall be renewed annually on or before the date of its expiration by submitting to the board an application or renewal, upon forms supplied by the board, together with the applicable renewal fee prescribed in Chapter 1 of these rules and documentation of satisfaction of the continuing professional education requirements prescribed by Subchapter G of these rules.

B. Every license issued by the board under this Chapter to be effective on or after January 1, 1999, shall be renewed in the year 2000, and each year thereafter, on or before the first day of the month in which the licensee was born. Renewal fees shall be prorated for the transition to birth month licensure. An application for renewal of license shall be mailed by the board to each person holding a license issued under this Chapter at least 30 days prior to the expiration of the license each year. Such form shall be mailed to the most recent address of each licensed respiratory therapist as reflected in the official records of the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(B)(6) and R.S. 37:3351-3361.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 12:767 (November 1986), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 22:1218 (December 1996), LR 24:1502 (August 1998), LR 25:2218 (November 1999).

§2545. Reinstatement of License

A. A license which has expired without renewal may be reinstated by the board if application for reinstatement is made not more than two years from the date of expiration and subject to the conditions and procedures hereinafter provided.

B. An application for reinstatement shall be made upon forms supplied by the board and accompanied by two letters of recommendation, one from a reputable licensed physician and one from a reputable licensed respiratory therapist with whom the applicant has been associated in the applicant's most recent place of employment, together with the applicable renewal fee, plus a penalty equal to twice the renewal fee.

C. With respect to an application for reinstatement made more than one year after the date on which the license expired, as a condition of reinstatement, the board may require that the applicant complete a statistical affidavit upon a form provided by the board, provide the board with a recent photograph, and/or possess a current, unrestricted license issued by another state, evidencing satisfaction of the requirements of Chapter 25, Subchapter G with respect to continuing professional education.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(B)(6) and R.S. 37:3351-3361.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 12:767 (November 1986), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 22:1218 (December 1996), LR 25:2218 (November 1999).

§2547. Temporary License

A. The board may issue a 12-month temporary license as a registered respiratory therapist or a certified respiratory therapist under the following terms and conditions.

1. To be eligible for a 12-month temporary license as a registered respiratory therapist or a certified respiratory therapist, an applicant shall:

a. be qualified for licensure under §2507.A or §2509.A, save for having taken and passed a required licensing examination;

b. have successfully completed a respiratory care educational program accredited by the Commission on Accreditation of Allied Health Education Programs or its successor, in collaboration with the Committee on Accreditation for Respiratory Care;

c. have taken, or made application to take, the required written examination and be awaiting the administration and/or reporting of scores thereon; and

d. have applied within one year of the applicant's date of graduation from an accredited respiratory care education program. Exceptions to §2547.A.1.d, may be made at the discretion of the board with the advice of the Advisory Committee, provided that such request is submitted within the initial one year period from the date of graduation.

2. A temporary license issued under this Subsection shall be effective for 12 months and shall, in any event, expire and become null and void on the earlier of:

a. the date on which the board takes action on the application following notice of the applicant's scores on the licensing examination; or

b. the first date of the examination if the applicant fails to appear for or complete the examination.

3. A temporary license may be extended only once, for a six month period, provided the applicant submits a written request for extension to the board. All such requests for a six month extension will be referred to the Advisory Committee for review and recommendation to the board. The Advisory Committee or the board may require additional documents from the licensee, such as:

a. licensing examination results for all attempts;

b. evidence of having attended entry level examination review courses; or

c. proof of extenuating circumstances preventing the licensee from attempting the licensing examination.

4. A temporary license so renewed under this Subsection shall be effective for not more than 6 months and shall, in any event, expire and become null and void on the earlier of:

a. the date on which the board takes action on the application following notice of the applicant's scores on the licensing examination; or

b. the first date of the examination if the applicant fails to appear for or complete the examination.

B. The board may grant a permit to practice, effective for a period of 60 days, to an applicant who has made application to the board for a license as a registered respiratory therapist, who provides satisfactory evidence of registration by the National Board for Respiratory Care pursuant to written examination administered by the NBRC,

and who is not otherwise demonstrably ineligible for licensure under §2507 of these rules. A permit issued under this Subsection may not be extended or renewed beyond its initial term.

C. The board may grant a permit to practice, effective for a period of 60 days, to an applicant who has made application to the board for a license as a certified respiratory therapist, who provides satisfactory evidence of having successfully completed a respiratory care educational program approved by the Committee on Accreditation for Respiratory Care or its successor organization, and who is not otherwise demonstrably ineligible for licensure under §2509 of these rules. A permit issued under this Subsection may not be extended or renewed beyond its initial term.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(B)(6) and R.S. 37:3351-3361.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 12:767 (November 1986), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 15:271 (April 1989), LR 17:480 (May 1991), LR 19:746 (June 1993), LR 25:2218 (November 1999).

Subchapter F. Advisory Committee on Respiratory Care

§2549. Organization; Authority and Responsibilities

A. The Advisory Committee on Respiratory Care (the "committee"), as established, appointed and organized pursuant to R.S. 37:3356 of the Act is hereby recognized by the board.

B. The committee shall:

1. have such authority as is accorded it by the Act;

2. function and meet as prescribed by the Act;

3. serve as a clearinghouse for nontraditional respiratory care education and training programs conducted in the state of Louisiana;

4. advise the board on issues affecting the licensing of registered and certified respiratory therapists and on the regulation of respiratory care in the state of Louisiana;

5. perform such other functions and provide such additional advice and recommendations as may be requested by the board;

6. provide advice and recommendations to the board respecting the modification, amendment and supplementation of rules and regulations, standards, policies and procedures respecting respiratory care licensure and practice;

7. serve as liaison between and among the board, licensed respiratory therapists, and professional organizations; and

8. have authority to review and advise the board on requests for extension of temporary licenses and license reinstatement.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(B)(6) and R.S. 37:3351-3361.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 19:747 (June 1993), amended LR 25:2219 (November 1999).

§2551. Delegation of Authority

A. Authority is hereby delegated to the Advisory Committee on Respiratory Care to:

1. survey, by site visit or otherwise, each hospital or other institution located in this state which is affiliated with and at which is conducted a nontraditional respiratory care education and training program for the purpose of reporting to the board as provided by §2351.B;

2. assist the board in the review of applicant's satisfaction of continuing education requirements for renewal of licensure under this Chapter as provided in §2551.D.

B. The committee shall annually report to the board, in writing, on each such nontraditional respiratory care education and training program conducted in this state and, with respect to each such program, advise the board with respect to:

1. such program's compliance with the provisions of these rules relating to the conduct of such programs;

2. the number of students enrolled and participating in such program during the preceding year;

3. the number of graduates of such program having taken the National Board of Respiratory Care entry-level examination and the number of such graduates having successfully passed such examination; and

4. any recommendations the committee may have with respect to the future conduct of such program and regulation of the same by the board.

C. In discharging the responsibilities provided for by this Section, the committee shall have authority to:

1. periodically request and obtain necessary and appropriate information from hospitals or other institutions located in this state which are affiliated with and at which are conducted a nontraditional respiratory care education and training programs, from the coordinators of such program, and from students enrolled in such programs; and

2. periodically conduct visits of the hospitals or other institutions at which such programs are conducted in this state.

D. To carry out its duties of §2551.A.2, the Advisory Committee is authorized by the board to advise and assist the board in the review and approval of continuing professional education programs and licensee satisfaction of continuing professional education requirements for renewal of licensure, as prescribed by Chapter 25, Subchapter G, including the authority and responsibility to:

1. evaluate organizations and entities providing or offering to provide continuing professional education programs for all licensed respiratory therapists and provide

recommendations to the board with respect to the board's recognition and approval of such organizations and entities as sponsors of qualifying continuing professional education programs and activities pursuant to §2559 of these rules; and

2. review documentation of continuing professional education by licensed respiratory therapists, verify the accuracy of such documentation, and evaluation of and make recommendations to the board with respect to whether programs and activities evidenced by applicants for renewal of licensure comply with and satisfy the standards for such programs and activities prescribed by these rules; and

3. request and obtain from applicants for renewal of licensure such additional information as the Advisory Committee may deem necessary or appropriate to enable it to make the evaluations and provide the recommendations for which the committee is responsible.

E. In discharging the functions authorized under this Section the Advisory Committee and the individual members thereof shall, when acting within the scope of such authority, be deemed agents of the board. All information obtained by the Advisory Committee members pursuant to §§2551.A.2 and D shall be considered confidential. Advisory Committee members are prohibited from communicating, disclosing or in any way releasing to anyone, other than the board, any information or documents obtained when acting as agents of the board without first obtaining written authorization from the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3351-3361, R.S. 37:1270(B)(6) and R.S. 37:3357.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 19:747 (June 1993), amended LR 22:1219 (December 1996), LR 25:2219 (November 1999).

Subchapter G. Continuing Professional Education

§2553. Scope of Subchapter

A. The rules of this Subchapter provide standards for the continuing professional education requisite to the annual renewal of licensure as a licensed respiratory therapist, as required by §2543 and §2555 of these rules, and prescribe the procedures applicable to satisfaction and documentation of continuing professional education in connection with application for renewal of licensure.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3357(D) and R.S. 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 22:1219 (December 1996), amended LR 25:2220 (November 1999).

§2555. Continuing Professional Educational Requirement

A. Subject to the exceptions specified in §2569 of this Subchapter, to be eligible for renewal of licensure for 1998 and thereafter, a registered respiratory therapist or certified respiratory therapists shall, within each year during which he holds licensure, evidence and document, upon forms supplied by the board, successful completion of not less than 10 hours, or 1.0 continuing education unit (CEU) of continuing education courses sanctioned by the American Association of Respiratory Care, the Respiratory Care Advisory Committee to the board, or their successors.

B. One Continuing Education Unit (CEU) constitutes and is equivalent to 10 hours of participation in organized continuing professional education programs approved by the board and meeting the standards prescribed in this Subchapter. One hour of continuing education credit is equivalent to 50 minutes of instruction.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3357(D) and R.S. 37;1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 22:1219 (December 1996), amended LR 25:2220 (November 1999).

§2557. Qualifying Continuing Professional Education Programs

A. To be acceptable as qualifying continuing professional education under these rules, a program shall:

1. have significant and substantial intellectual or practical content dealing principally with matters germane and relevant to the practice of respiratory care;

2. have pre-established written goals and objectives, with its primary objective being to maintain or increase the participant's competence in the practice of respiratory care;

3. be presented by persons whose knowledge and/or professional experience is appropriate and sufficient to the subject matter of the presentation and is up to date;

4. provide a system or method for verification of attendance or course completion; and

5. be a minimum of 50 continuous minutes in length.

B. Other approved continuing education activities include:

1. earning a grade of "C" or better in a college or university course required to earn a degree in cardiopulmonary science or respiratory care, or grade of "pass" in a pass/fail course. One credited semester hour will be deemed to equal 15 contact hours or 1.5 CEUs;

2. programs on advanced Cardiac Life Support (ACLS), Pediatric Advanced Life Support (PALS) or Neonatal Advanced Life Support (NALS), or their successors each of which will equal 10 contact hours;

3. successfully completing a recredentialing examination for the highest credential held by the registered respiratory therapist or the certified respiratory therapist including certified respiratory therapist (CRT), registered respiratory therapist (RRT), certified pulmonary function technologist (CPFT), registered pulmonary function technologist (RPFT), registered cardiovascular technologist (RCVT), and certified cardiovascular technologist (CCVT), with each such recredentialing examination equal to 10 contact hours;

4. initial certification as a CPFT, RPFT Perinatal/Pedi Specialist, RCVT or CCVT and each such certification will equal 10 hours;

5. any accredited home study/correspondence program approved by the American Association for Respiratory Care (AARC) or the Respiratory Care Advisory Committee;

6. any initial instructor course taken in preparation for teaching ACLS, PALS, Basic Life Support (BLS) or NALS or their successors; and

7. successful completion by a certified respiratory therapist of the advanced practitioner examination (Registry examination).

C. None of the following programs, seminars or activities shall be deemed to qualify as acceptable CEU programs under these rules:

1. any program not meeting the standards prescribed by §2557.A;

2. independent/home study correspondence programs not approved or sponsored by the AARC or the Louisiana Respiratory Care Advisory Committee;

3. in-service education provided by a sales representative;

4. teaching, training or supervisory activities not specifically included in §2557.B;

5. holding office in professional or governmental organizations, agencies or committees;

6. participation in case conferences, informal presentations, or in service activities;

7. giving or authorizing verbal or written presentations, seminars or articles or grant applications;

8. passing basic cardiac life support (BCLS); and

9. any program, presentation, seminar, or course not providing the participant an opportunity to ask questions or seek clarification of matters pertaining to the presented content.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3357(D) and R.S. 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 22:1220 (December 1996), amended LR 25:2220 (November 1999).

§2559. Approval of Program Sponsors

A. Any program, course, seminar, workshop or other activity meeting the standards prescribed by §2557 shall be deemed approved for purposes of satisfying continuing education requirements under this Subchapter, if sponsored or offered by the American Association for Respiratory Care (AARC), the Louisiana Hospital Association, the Louisiana Nurses Association, the American Lung Association, the American Heart Association, the American College of Chest Physicians, the American Thoracic Society, the American Nursing Association, the American Society of Cardiovascular Professionals, the American Medical Association, the American College of Cardiology, the Louisiana Association of Cardiovascular and Pulmonary Rehabilitation, the Louisiana State Medical Society, the American Board of Cardiovascular Perfusion, the American Nursing Credentialing Center, the Society for Diagnostic Medical Sonographers, any hospital or agency belonging to the Louisiana Hospital Association, any hospital or agency accredited by the Joint Commission on Accreditation of Healthcare Organizations (JCAHO), and Cardiovascular Credentialing International.

B. Upon the recommendation of the Advisory Committee, the board may designate additional organizations and entities whose programs, courses, seminars, workshops, or other activities shall be deemed approved by the board for purposes of qualifying as an approved continuing professional education program under §2557.A.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3357(D) and R.S. 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 22:1220 (December 1996), amended LR 25:2221 (November 1999).

§2561. Approval of Program

A. A continuing professional education program or activity sponsored by an organization or entity not deemed approved by the board pursuant to §2559.A may be pre-approved by the board as a program qualifying and acceptable for satisfying continuing professional education requirements under this Subchapter upon written request to the board therefore, upon a form supplied by the board, providing a complete description of the nature, location, date, content and purpose of such program and such other information as the board or Advisory Committee may request to establish the compliance of such program with the standards prescribed by §2557. Any such requests for pre-approval respecting a program which makes and collects a charge for attendance shall be accompanied by a nonrefundable processing fee of $30.

B. Any such written request shall be referred by the board to the Advisory Committee for its recommendation. If the recommendation is against the approval, the board shall give notice of such recommendation to the person or organization requesting approval and such person or organization may appeal to the board by written request delivered to the board within 10 days of such notice. The board's decision with respect to approval of any such activity shall be final. Persons and organizations requesting pre-approval of continuing professional education programs should allow not less than 60 days for such requests to be processed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3357(D) and R.S. 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 22:1221 (December 1996), amended LR 25:2221 (November 1999).

§2563. Documentation Procedure

A. A form for annual documentation and certification of satisfaction of the continuing professional education requirements prescribed by these rules shall be mailed by the board to each licensed respiratory therapist subject to such requirements with the application for renewal of licensure form mailed by the board pursuant to §2543 of these rules. Such form shall be completed and delivered to the board with the licensee's renewal application.

B. A licensed respiratory therapist shall maintain a record or certificate of attendance for at least four years from the date of completion of the continuing education program.

C. The board or Advisory Committee shall randomly select for audit no fewer than 3 percent of the licensees each year for an audit of continuing education activities. In addition, the board or Advisory Committee has the right to audit any questionable documentation of activities. Verification shall be submitted within 30 days of the notification of audit. A licensee's failure to notify the board of a change of mailing address will not absolve the licensee from the audit requirement.

D. Any certification of continuing professional education not presumptively approved by the board pursuant to these rules, or pre-approved by the board in writing, shall be referred to the Advisory Committee for its evaluation and recommendations pursuant to §2551.D.1.

E. If the Advisory Committee determines that a program or activity certified by an applicant for renewal in satisfaction of continuing education requirements does not qualify for recognition by the board or does not qualify for the number of CEU's claimed by the applicant, the board shall give notice of such determination to the applicant for renewal and the applicant may appeal the Advisory Committee's recommendation to the board by written request delivered to the board within 10 days of such notice. The board's decision with respect to approval and recognition of such program or activity shall be final.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3357(D) and R.S. 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 22:1221 (December 1996), amended LR 25:2222 (November 1999).

§2565. Failure to Satisfy Continuing Professional Education Requirements

A. An applicant for renewal of licensure who fails to evidence satisfaction of the continuing professional education requirements prescribed by these rules shall be given written notice of such failure by the board. The license of the applicant shall remain in full force and effect for a period of 90 days following the mailing of such notice, following which it shall be deemed expired, unrenewed and subject to revocation without further notice, unless the applicant shall have, within 90 days, furnished the board satisfactory evidence, by affidavit, that:

1. the applicant has satisfied the applicable continuing professional education requirements;

2. the applicant is exempt from such requirements pursuant to these rules; or

3. the applicant's failure to satisfy the continuing professional education requirements was occasioned by disability, illness or other good cause as may be determined by the board pursuant to §2567.

B. The license of a registered respiratory therapist or a certified respiratory therapist whose license has expired by nonrenewal or has been revoked for failure to satisfy the continuing professional education requirements of these rules may be reinstated by the board upon written application to the board accompanied by payment of a reinstatement fee, in addition to all other applicable fees and costs of $50, together with documentation and certification that the applicant has, for each calendar year since the date on which the applicant's license lapsed, expired, or was revoked, completed an aggregate of 10 contact hours (1.0 CEU) of qualifying continuing professional education.

C. Any licensee who falsely certifies attendance and/or completion of the required continuing education requirement will be subject to disciplinary action.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3357(D) and R.S. 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 22:1221 (December 1996), amended LR 24:1502 (August 1998), LR 25:2222 (November 1999).

§2567. Waiver of Requirements

A. The board may, in its discretion upon the recommendation of the Advisory Committee, waive all or part of the continuing professional education required by these rules in favor of a certified respiratory therapist or a registered respiratory therapist who makes written requests for such waiver to the board and evidences to the satisfaction of the board a permanent physical disability, illness, financial hardship or other similar extenuating circumstances precluding the individual's satisfaction of continuing professional education requirements. Any licensed respiratory therapist submitting a CEU waiver request is required to do so on or before the date specified for the renewal of the licensee's license by §2543. Any request received by the Board past the date for the renewal of the licensee's licensure will not be considered for waiver but, rather, in accordance with the provisions of §2565.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3357(D) and R.S. 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 22:1222 (December 1996), amended LR 25:2222 (November 1999).

§2569. Exceptions to the Continuing Professional Education Requirements

A. The continuing professional education requirements prescribed by this Subchapter as requisite to renewal of licensure shall not be applicable to:

1. a registered respiratory therapist or a certified respiratory therapist employed exclusively by, or at an institution operated by the United States Government; or

2. a registered respiratory therapist or a certified respiratory therapist who has held an initial Louisiana license on the basis of examination for less than one year.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3357(D) and R.S. 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 22:1222 (December 1996), amended LR 25:2222 (November 1999).

Chapter 29. Private Radiologic Technologists

Subchapter A. General Provisions

§2901. Scope

A. The rules of this Chapter govern the certification as to proficiency of private radiologic technologists to perform diagnostic or therapeutic radiological examinations or both in the private office of a physician or in clinics in which a physician practices as provided under R.S. 37:1292, as hereafter amended or supplemented.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(B)(6) and R.S. 37:1292.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 13:574 (October 1987).

§2903. General Definitions

Applicant a person who has applied to the board for a certificate to perform diagnostic or therapeutic radiological examinations or treatments or both in the private office of a physician or in clinics in which a physician practices and under the direct supervision of a physician licensed to practice medicine by the board.

Application a written request directed to and received by the board upon forms supplied by the board, for a certificate to perform radiological examinations or treatments in the private office of a physician or in clinics in which a physician practices in the state of Louisiana, together with all information, certificates, documents, and other materials required by the board.

Board the Louisiana State Board of Medical Examiners created pursuant to R.S. 37:1261-1291, as hereafter amended or supplemented,

Certificate the lawful authority of a person to use radioactive materials or equipment emitting or detecting ionizing radiation on humans to perform a diagnostic or therapeutic examination or treatment or both in the private office of a physician or in a clinic in which a physician practices and under the direct supervision of a physician licensed to practice medicine by the board, said authority being evidenced by a certificate of proficiency duly issued by and under the official seal of the board.

Clinic a facility where patients are studied or treated on an outpatient basis by physicians specializing in various or particular ailments and practicing as a group.

Direct Supervision of a Physician pursuant to specific instructions, oral or in writing, or otherwise according to prescription given directly by the physician to the private radiologic technologist.

Education Program a set of formally structured activities designed to provide students with the knowledge and skills necessary to perform diagnostic or therapeutic radiological examinations or treatments or both, with evaluation of student performance according to predetermined objectives.

Formal Training training or education, including either didactic or clinical practicum or both, which has a specified objective, planned activities for students, and suitable methods for measuring student attainment, and which is offered, sponsored, or approved by an organization or institution able to meet or enforce these criteria.

Good Moral Character as applied to an applicant, means that:

a. the applicant has not, prior to or during the pendency of an application to the board, been guilty of any act, omission, condition, or circumstance which would provide legal cause under R.S. 37:1285 for the suspension or revocation of certification;

b. the applicant has not prior to or in connection with his application, made any representation to the board, knowingly or unknowingly, which is in fact false or misleading as to a material fact or omits to state any fact or matter that is material to the application; and

c. the applicant has not made any representation or failed to make a prepresentation or engaged in any act or omission which is false, deceptive, fraudulent, or misleading in achieving or obtaining any of the qualifications for certification required by this Chapter.

Ionizing Radiation any electromagnetic or particulate radiation (X-rays, gamma rays, alpha and beta particles, high speed electrons, neutrons, and other nuclear particles) which interacts to produce ion pairs in matter.

Physician a person possessing a current license to practice medicine in the state of Louisiana.

Private Nuclear Medicine Technologist a private radiologic technologist who conducts in vivo or in vitro detection and measurement of radioactivity for medical purposes or administers radiopharmaceuticals to human beings.

Private Radiologic Technologist a person who is authorized to perform radiological examinations or treatment or both in the private office of a physician or in clinics in which a physician practices and under the direct supervision of a physician.

Private Radiation Therapy Technologist a private radiologic technologist who utilizes radiation-generating equipment for therapeutic purposes on human beings.

Private Radiographer a private radiologic technologist who performs a comprehensive scope of diagnostic radiological procedures employing equipment which emits ionizing radiation and is responsible for operation of radiation generating equipment, the shielding of patient and staff from unnecessary radiation, the appropriate exposure of radiographs, or other procedures which contribute to any significant extent to the site or dosage of ionizing radiation to which a patient is exposed.

Radiologic Technology Board of Examiners agency created pursuant to R.S. 37:3200-3219, as hereafter amended or supplemented.

Radiological Examination or *Treatment* the use of radioactive materials or of equipment emitting or detecting ionizing radiation on humans for diagnostic or therapeutic purposes under direct prescription and supervision or a physician.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(B)(6) and R.S. 37:1292.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 13:574 (October 1987).

§2905. Necessity of Certificate; Exemptions; Information Required

A. No person may perform or attempt to perform a diagnostic or therapeutic radiological examination or treatment in the private office of a physician or in a clinic in which a physician practices unless he has in his personal possession a certificate issued to him under this Chapter or is otherwise exempted from the provisions of this Chapter pursuant to §2905.B and C.

B. The following persons are exempt from the requirements of this Chapter:

1. any physician licensed by the board to practice medicine in the state of Louisiana; or

2. any person licensed by the Radiologic Technology Board of Examiners.

C. Any person who performs the functions of a private radiologic technologist but has been employed by the supervising physician for less than six months shall be exempt from the requirements of this Chapter only for the first six months of such employment. This temporary exemption shall not apply to anyone who has been employed previously as a private radiologic technologist or who has otherwise performed any radiological examination or treatment in the course of any previous employment.

D. Each physician who employs any person to perform diagnostic or therapeutic radiological examinations or treatments or both in his private office or in the clinic in which that physician practices shall report to the board annually as a condition of or issuance or renewal of that physician's licensure to practice medicine in the state of Louisiana the following information for each person so employed:

1. name of the employee;

2. address at which that person performs diagnostic or therapeutic radiological examinations or treatments or both;

3. initial date of employment as a private radiologic technologist;

4. any exemption claimed for any person under this Chapter; and

5. certification by the physician that the person employed as a private radiologic technologist is proficient in, and is competent to perform, the functions of a private radiologic technologist.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(B)(6) and R.S. 37:1292.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 13:575 (October 1987).

Subchapter B. Certification

§2907. Qualifications for Certification and Approval

A. To be eligible for certification under this Chapter, an applicant shall:

1. be at least 18 years of age;

2. be of good moral character;

3. have successfully completed a four-year course of study in a secondary school approved by the State Board of Elementary and Secondary Education, passed an approved equivalency test, or have graduated from a secondary school outside Louisiana having comparable approval;

4. have attended and successfully completed a course of radiological study and safety which meets the requirements of §2909 of this Chapter, or have been employed by a physician continuously since September 1, 1983 to perform diagnostic or therapeutic radiological examinations or treatments or both in the private office or clinic of that physician and under said physician's direct supervision.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(B)(6) and R.S. 37:1292.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 13:575 October 1987).

§2909. Educational Requirements

A. An applicant shall have attended and successfully completed an educational program and formal training meeting either of the following standards in preparation for the position of radiologic technologist prior to making application for certification.

1. An educational program and formal training that meets the essentials and guidelines of an accredited educational program for the radiographer, radiation therapy technologist, and the nuclear medicine technologists as adopted by the American College of Radiology, American Medical Association, and the American Society of Radiologic Technologists and is accredited by the

Committee on Allied Health Education and Accreditation and the Joint Review Committee on Education in Radiologic Technology shall be deemed adequate under the requirements of this Section. The adequacy of such program shall exist only during the term within which it remains accredited by the aforesaid accrediting entities.

2. A specific course of radiological study and safety approved by the board, pursuant to §2911 of this Chapter and attended and completed by a potential applicant within the six months prior to making application.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(B)(6) and R.S. 37:1292.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 13:575 (October 1987).

§2911. Application for Approval of Course of Study

A. Any employing physician may petition the board to approve an individualized and specific course of study to be attended and successfully completed by said physician's employee as a condition precedent to making application for certification of that employee as a private radiologic technologist under this Chapter.

B. To obtain board approval, the proposed course of study must include, as a minimum:

1. specific curriculum content, including the following courses at an accredited institution of higher learning, through which the employee must complete at least 12 semester credit hours:

a. introduction to radiologic technology;

b. medical ethics;

c. radiation safety and protection; and

d. patient care and patient positioning;

2. a clinical practicum taken concurrent with, or following completion of, the curriculum identified in §2911.B.1. Such practicum shall involve direct training of the employee by a physician or licensed radiologic technologist for at least five hours per week for not less than eight weeks;

3. the board may impose additional course requirements or require additional curriculum and/or practicum in its discretion;

4. no petition for approval of a course of study will be considered by the board until the applicable processing fee established under Chapter 81 has been paid.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(B)(6) and R.S. 37:1292.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 13:576 (October 1987).

§2913. Application for Certification; Procedure

A. Application for certification as a private radiologic technologist must be made upon forms supplied by the board and must be submitted by the proposed supervising physician, and shall be required as a condition precedent to the issuance or renewal of said physician's license to practice medicine in the state of Louisiana.

B. Application for certification and approval under this Chapter must include:

1. proof, documented in a form satisfactory to the board, that the applicant possesses the qualifications set forth in §2907 of this Chapter;

2. affidavits, notarized and properly executed by the applicant and the proposed supervising physician, certifying the truthfulness and authenticity of all information, representations, and documents contained in or submitted with the completed application; and

3. such other information and documentation as the board may require.

C. All documents required to be submitted to the board must be the original or certified copy thereof. For good cause shown, the board may waive or modify this requirement.

D. The board may reject or refuse to consider any application which is not complete in every detail, including submission of every document required by the application form. The board may in its discretion require a more detailed or complete response to any request for information set forth in the application form as a condition to consideration of an application.

E. Each application submitted to the board by a proposed supervising physician shall be accompanied by a fee of $35 of which the sum of $25 will represent a nonrefundable processing fee, as established under Chapter 81.

F. Upon submission of a completed application form, together with the documents required thereby, and the payment of the application fee established under Chapter 81, the board may require the applicant and the proposed supervising physician to make a personal appearance before a member of the board or a physician designated for this purpose, to be interviewed regarding the applicant's qualifications for certification and their understanding of the authority, limitations, obligations, and responsibilities imposed on private radiologic technologists and supervising physicians by laws and regulations applicable thereto.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(B)(6) and R.S. 37:1292.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 13:576 (October 1987).

§2915. Issuance of Certificate; Rating

A. If the qualifications, requirements, and procedures of §§2907 and 2913 are met to the satisfaction of the board, the board shall certify the applicant as a private radiologic technologist.

B. Each private radiologic technologist certificate issued under this Chapter shall be endorsed as follows:

1. private radiologic technologist-nuclear medicine;

2. private radiologic technologist-radiation therapy; or

3. private radiologic technologist-radiographer.

C. Every certificate issued under this Chapter, of whatever rating, is expressly subject to the terms, restrictions, and limitations set forth in the approved application. A radiologic technologist shall be restricted to the use of the ionizing radiation by the category specified by the endorsement on his certificate and at the address or location specified in the job description submitted with his application.

D. A certificate of proficiency issued under this Chapter is valid as of the date of issuance. No representation is made, nor should such certificate be construed as an acknowledgment of continued competence or proficiency beyond the date of issuance.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(B)(6) and R.S. 37:1292.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 13:576 (October 1987).

§2917. Obligations and Responsibilities

A. The private radiologic technologist shall:

1. at all times retain in his personal possession a copy of the certificate issued under this Chapter; and

2. comply with the reasonable request by the board for personal appearances and/or information relative to the functions, activities, and performance of the private radiologic technologist.

B. Each physician who employs any person to perform diagnostic or therapeutic radiological examinations or treatments or both in his private office or in the clinic in which that physician practices shall report to the board annually as a condition of or issuance or renewal of that physician's licensure to practice medicine in the state of Louisiana the following information for each person so employed:

1. name of the employee;

2. address at which that person performs diagnostic or therapeutic radiological examinations or treatments or both;

3. initial date of employment as a private radiologic technologist;

4. any exemption claimed for any person under this Chapter; and

5. certification by the physician that the person employed as a private radiologic technologist is proficient in, and is competent to perform, the functions of a private radiologic technologist.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(B)(6) and R.S. 37:1292.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 13:576 (October 1987).

§2919. Causes for Nonissuance, Suspension, Revocation; or Restrictions; Fines; Reinstatement

A. The board may refuse to issue, or may suspend, revoke, or impose probationary or other restrictions on, any certificate issued under this Chapter for the following causes:

1. conviction of a crime or entry of a plea of guilty or nolo contendere to a criminal charge;

2. fraud, deceit, or perjury in obtaining any certificate issued under this Chapter;

3. providing false testimony before the board;

4. habitual or recurring drunkenness;

5. habitual or recurring use of morphine, opium, cocaine, drugs having a similar effect, or other substances which may induce physiological or psychological dependence;

6. aiding, abetting, or assisting any physician in any act or course of conduct enumerated in R.S. 37:1285;

7. efforts to deceive or defraud the public;

8. incompetency;

9. immoral conduct in exercising the privileges provided for by certification under this part;

10. persistent violation of federal or state laws relative to control of social diseases;

11. interdiction or commitment by due process of law;

12. inability to perform or function as a private radiologic technologist with reasonable skill or safety to patients because of mental illness or deficiency, physical illness, including but not limited to deterioration through the aging process or loss of motor skills, and/or excessive use or abuse of drugs, including alcohol;

13. refusing to submit to the examination and inquiry of an examining committee of physicians appointed or designated by the board to inquire into the private radiologic technologist's physical and mental fitness and ability to perform diagnostic or therapeutic radiological examinations or treatments or both with reasonable skill and safety;

14. violation of any provision of this Chapter, or of any rules and regulations of the board or statute pertaining to private radiologic technologists;

15. misuse of any radiological equipment or materials;

16. violation of any federal or state regulation controlling the use or application of radiological materials or ionizing radiation, including, but not limited to, those regulations promulgated by the U.S. Environmental Protection Agency, the U.S. Occupational Safety and Health Administration, and the Louisiana Department of Environmental Quality.

B. The board may, as a probationary condition, or as a condition of the reinstatement of any certificate suspended or revoked hereunder, require the private radiologic technologist and/or the supervising physician to pay all costs of the board proceedings, including investigators', stenographers', and attorneys' fees, and to pay a fine not to exceed the sum of $5,000.

C. Any certificate suspended, revoked, or otherwise restricted by the board may be reinstated by the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(B)(6) and R.S. 37:1292.
HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 13:576 (October 1987).

§2921. Severability

A. If any rule, provision, or item of this Chapter or the application thereof is held invalid as in excess of or inconsistent with statutory or constitutional authority, such invalidity shall not affect other rules, provisions, items, or applications, and to this end the rules and provisions of this Chapter are hereby declared to be severable.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(B)(6) and R.S. 37:1292.
HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 13:576 (October 1987).

Chapter 31. Athletic Trainers

Subchapter A. General Provisions

§3101. Scope of Chapter

A. The rules of this Chapter govern the certification of athletic trainers in the state of Louisiana.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3301-3312.
HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, LR 12:522 (August 1986).

§3103. Definitions

A. As used in this Chapter, the following terms and phrases shall have the meanings specified.

Actively Engaged the phrase actively engaged as an athletic trainer, as applied to any person, means that:

a. such person is employed by an educational institution, professional athletic organization, or other board-approved athletic organization for the duration of the institution's academic year or the length of the organization's season;

b. such person performs the duties of athletic trainer as the principal responsibility of such employment; and

c. such employment is such person's primary employment, or the primary reason for such person's employment.

Advisory Committee the Athletic Training Advisory Committee to the Board, constituted under and pursuant to §3104.

Applicant a person who has applied to the board for certification as a certified athletic trainer.

Application a written request directed to and received by the board, upon forms supplied by the board, for certification as an athletic trainer in the state of Louisiana.

Approved as applied to a school, college, university, organization, program, curriculum, or course of study, shall mean affirmatively recognized and sanctioned by the board in accordance with §§3111-3117 of this Chapter.

Board the Louisiana State Board of Medical Examiners.

Certification the board's official recognition of a person's lawful authority to act and serve as an "athletic trainer" as such term is defined by the law, R.S. 37:3302.

Certified Athletic Trainer a person possessing a current certificate, duly issued by the board, evidencing the board's certification of such person under the law.

Louisiana Athletic Trainers Law or *the Law* Acts 1985, Number 288, as amended, R.S. 37:3301-3312.

NATA the National Athletic Trainers Association, or its successor.

Physician a person holding a current unrestricted license to engage in the practice of medicine in the state of Louisiana, duly issued by the board.

State any state of the United States, the District of Columbia, and Puerto Rico.

B. Masculine terms wherever used in this Chapter shall also be deemed to include the feminine.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3301-3312 and R.S. 37:1270(B)(6).
HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, LR 12:522 (August 1986), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 24:937 (May 1998).

§3104. Athletic Training Advisory Committee

A. Constitution. An Athletic Training Advisory Committee ("the advisory committee") to the board is hereby constituted, to be composed and appointed, to have such functions, and to discharge such responsibilities as hereinafter provided.

B. Composition and Qualifications. The advisory committee shall comprise seven members, including five athletic trainers and two physicians, each of whom shall, to be eligible for and prior to appointment to the committee, be certified as an athletic trainer or licensed as a physician by and in good standing with the board, have maintained residency and practice in the state of Louisiana for not less than one year and have not less than three years of experience in their respective fields. In addition to such general qualifications, the athletic trainer and physician members of the advisory committee shall satisfy the following qualifications.

1. Athletic Trainer Members. The athletic trainer members of the committee shall be appointed and apportioned as follows:

a. one of such members shall be employed or appointed as an athletic trainer by and for a high school;

b. one of such members shall be employed or appointed as an athletic trainer by and for a college or university; and

c. insofar as practical or possible, in its appointment of members to the advisory committee, the board shall maintain geographic diversity so as to provide membership on the advisory committee by certified athletic trainers residing and practicing throughout Louisiana, with at least one member from the Alexandria, Louisiana area or north, and at least one member from south of such area.

2. Physician Members. The physician members of the committee shall each:

a. hold the title of team physician or its equivalent, employed or appointed by a Louisiana high school, college, university, or professional athletic team; and

b. have responsibility for and an active role in the direct supervision of athletic trainers.

C. Appointment; Term of Service. Each member of the advisory committee shall be appointed by the board from among a list of not fewer than two qualified nominees for each committee position submitted to the board by the Louisiana Athletic Trainers Association (LATA), or its successor. Each nomination so submitted shall be accompanied by a personal résumé or *curriculum vitae* for the nominee. Each member of the advisory committee shall serve on the committee for a term of three years, or until his or her successor is appointed, and shall be eligible for reappointment.

D. Functions and Responsibilities of the Committee. The advisory committee is responsible and authorized by the board to:

1. assist the board in examining the qualifications and credentials of applicants for athletic trainer certification and make recommendations thereon to the board;

2. advise and assist the board, as the board may request, with respect to investigative and disciplinary proceedings affecting certified athletic trainers;

3. provide advice and recommendations to the board respecting the modification, amendment, and supplementation of rules and regulations, standards, policies, and procedures respecting athletic trainer certification and practice; and

4. establish and appoint a continuing education subcommittee, comprising no fewer than three athletic members of the advisory committee, to discharge the responsibilities prescribed by §3169.

E. Committee Meetings, Officers. The advisory committee shall meet at least twice each calendar year, or more frequently as may be deemed necessary by a quorum of the committee or by the board. The presence of five members, including at least one physician member, shall be requisite to constitute a quorum of the advisory committee. The advisory committee shall elect, from among its members, a chairman, a vice-chair, and a secretary. The chairman, or in his absence or unavailability, the vice-chair, shall call, designate the date, time, and place of, and preside at all meetings of the committee. The secretary shall record, or cause to be recorded, accurate and complete written minutes of all meetings of the advisory committee and shall cause copies of the same to be provided to the board.

F. Confidentiality. In discharging the functions authorized by the board under §3104, the advisory committee and the individual members thereof shall, when acting within the scope of such authority, be deemed agents of the board. All information obtained by the committee members pursuant to §3104.D, or pursuant to Subchapter H of this Chapter, shall be considered confidential. As such, advisory committee members are prohibited from communicating, disclosing, or in any way releasing to anyone, other than the board, any information or documents obtained when acting as agents of the board without first obtaining written authorization of the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3301-3312 and R.S. 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 24:937 (May 1998).

Subchapter B. Requirements and Qualifications for Certification

§3105. Scope of Subchapter

A. The rules of this Subchapter govern and prescribe the requirements, qualifications, and conditions requisite to eligibility for certification as a certified athletic trainer in the state of Louisiana.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3301-3312.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, LR 12:522 (August 1986).

§3107. Requirements for Certification

A. To be eligible and qualified for certification, an applicant shall:

1. be at least 18 years of age;

2. be a citizen of the United States or possess valid and current legal authority to reside and work in the United States duly recognized and issued by the commissioner of the Immigration and Naturalization Service of the United States under and pursuant to the Immigration and Nationality Act (66 Stat. 163) and the commissioner's regulations thereunder (8 CFR);

3. possess at least one of the following educational qualifications:

a. have successfully completed and graduated from an athletic training program of curriculum at a college or university approved by the board; or

b. possess a degree in physical therapy issued by a school, college, or university approved by the board; have successfully completed a basic athletic training course; a first-aid course approved by the American Red Cross, a cardiopulmonary resuscitation course approved by the American Heart Association or the American Red Cross, and a nutrition course; have been associated for not less than two years with an athletic team; demonstrate proficiency in athletic care; and possess letters of recommendation from a physician and a certified athletic trainer; or

c. possess a college or university diploma; have successfully completed not less than three consecutive (military duty excepted) and four total years employment or service as an apprentice athletic trainer at a college or university under the direct supervision of a state certified or licensed athletic trainer; and have successfully completed courses in athletic training, first-aid, cardiopulmonary resuscitation, and nutrition at an accredited college or university;

4. take and successfully pass the written and/or oral certification examination administered by the board or by the NATA or its successor;

5. satisfy the applicable fees as prescribed by Chapter 1 of these rules;

6. satisfy the procedures and requirements for application provided by §§3127-3131 of this Chapter and, if applicable, the procedures and requirements for examination provided by §3133-3151 of this Chapter; and

7. not be otherwise disqualified for certification by virtue of the existence of any grounds for denial of certification as provided by the law or in these rules.

B. The burden of satisfying the board as to the qualifications and eligibility of the applicant for certification shall be upon the applicant. An applicant shall not be deemed to possess such qualifications unless the applicant demonstrates and evidences such qualifications in the manner prescribed by, and to the satisfaction of, the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270, R.S. 37:1281 and R.S. 37:3301-3312.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 12:522 (August 1986), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 30:235 (February 2004).

§3109. Alternative Qualification

A. A person who possesses and meets all of the qualifications and requirements for certification specified by §3107 of this Chapter, safe for successfully passing the certification examination administered by the board, shall nonetheless be deemed qualified for certification, without the necessity of examination by the board, provided that:

1. he was actively engaged as an athletic trainer in the state of Louisiana on and as of September 6, 1985, and, at the time of his application for certification, is currently certified by a member of the NATA; or

2. he was actively engaged as an athletic trainer for a period of not less than three years prior to September 6, 1985, and is recommended for certification by a physician and two certified athletic trainers.

B. A person who possesses and meets all of the qualifications and requirements for certification specified by §3107.A.3 shall nonetheless be deemed qualified for certification provided that such person has been actively engaged as an athletic trainer for a period of not less than three years prior to September 6, 1985.

C. To be eligible and qualified for certification under §3109.A or B, an applicant's application must be submitted to and received by the board on or before September 6, 1986. Following such date, the board shall neither receive nor consider any applicant for initial certification under this Section.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3301-3312.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, LR 12:523 (August 1986).

Subchapter C. Board Approval

§3111. Scope of Subchapter

A. The rules of this Subchapter prescribe the requirements for board approval of schools, colleges, universities, athletic trainers, and athletic organizations where such approval if required for the purpose of assessing qualifications for certification.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3301-3312.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, LR 12:523 (August 1986).

§3113. Applicability of Approval

A. Successful completion of an athletic training curriculum and graduation from a board-approved college or university is among the alternative educational qualifications requisite to certification, as provided by §3107.A.3.a.

B. Possessing a degree in physical therapy from a school approved by the board is among the alternative educational qualifications requisite to certification, as provided by §3107.A.3.b.

C. Apprenticeship under the supervision of an athletic trainer approved by the board is among the alternative qualifications requisite to certification, as provided by §3107.A.3.c.

D. To qualify for certification under the provisions of §3109 of this Chapter, a person may have been actively engaged as an athletic trainer in the employment of an athletic organization approved by the board, as provided by §3103.A.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3301-3312.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, LR 12:523 (August 1986).

§3115. Approval of Schools and Colleges

A. A college or university which is currently accredited and approved by the NATA, or its successor, shall be concurrently considered approved by the board for purposes of qualification under §3107.A.3.a.

B. Board approval of a college or university hereunder shall be deemed to be effective as to an applicant if such college or university was approved as of the date on which the applicant's degree was awarded or the applicant successfully completed the athletic trainer program or curriculum at such college or university.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3301-3312.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, LR 12:523 (August 1986).

§3117. Approval of Physical Therapy Schools

A. A physical therapy school located in any state which is currently accredited by an accrediting agency recognized by the Council on Post-Secondary Accreditation or the United States Commission on Education, or their successors, shall be concurrently considered approved by the board for purposes of qualification for certification under §3107.A.3.b.

B. Board approval of a physical therapy school shall be deemed to be effective as to an applicant if such school was approved by the board as of the date on which the applicant's degree in physical therapy was awarded.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3301-3312.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, LR 12:523 (August 1986).

§3119. Approval of Athletic Trainers

A. A person shall be deemed to be an "athletic trainer approved by the board," as contemplated by §3107.A.3.c hereof, if such person is a certified athletic trainer, duly certified by the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3301-3312.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, LR 12:523 (August 1986).

§3121. Approval of Athletic Organizations

A. "Board-approved athletic organization," as used in §3103.A, shall be deemed to include the Amateur Athletic Union, the International Olympic Committee and its affiliates, the Pan American Committee, the National Collegiate Athletic Association, the National Association of Intercollegiate Athletics, the National High School Athletic Association, institution-sponsored and supported college and university intramural programs, and such other organizations, associations, institutions, programs, and events as the board may determine, upon individual application, to possess and apply characteristics and standards substantially equivalent to those possessed and applied by the institutions, organizations, and associations enumerated herein.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3301-3312.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, LR 12:523 (August 1986).

§3123. Withdrawal of Approval

A. Notwithstanding current or prior approval by the board pursuant to the provisions of this Subchapter or by individual determination, the board's approval of any school, college, university, athletic trainer, or athletic organization may be withdrawn at any time upon the board's affirmative finding that such school, college, university, athletic trainer, or athletic organizations does not possess the qualifications for approval specified by this Subchapter or by the law.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3301-3312.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, LR 12:523 (August 1986).

§3125. List of Approved Schools, Colleges, and Universities

A. A listing of approved colleges and universities having athletic trainer courses, curricula or degree programs and shall from time to time be amended and supplemented by the board consistently with the provisions of this Subchapter.

B. A listing of approved physical therapy schools shall from time to time be amended and supplemented by the board consistently with the provisions of this Subchapter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3301-3312.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, LR 12:524 (August 1986).

Subchapter D. Application

§3127. Purpose and Scope

A. The rules of this Subchapter govern the procedures and requirements applicable to application to the board for certification as a certified athletic trainer in the state of Louisiana.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3301-3312.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, LR 12:524 (August 1986).

§3129. Application Procedure

A. Application for certification shall be made upon forms prescribed and supplied by the board.

B. If application is made for certification on the basis of examination to be administered by the board, an initial application must be received by the board not less than 90 days prior to the scheduled date of the examination for which the applicant desires to sit (see Subchapter E of this Chapter respecting dates and places of examination). A completed application must be received by the board not less than 60 days prior to the scheduled date of such examination.

C. Application for certification based upon qualifications not requiring written examination administered by the board may be made at any time.

D. Application forms and instructions pertaining thereto may be obtained upon personal request at or written request directed to the office of the board. Application forms will be mailed by the board within 30 days of the board's receipt of request therefor. To ensure timely filing and completion of applications, forms must be requested not later than 40 days prior to the deadlines for initial applications specified in §3129.B.

E. An application for certification under this Chapter shall include:

1. proof, documented in a form satisfactory to the board, that the applicant possesses the qualifications for certification set forth in this Chapter;

2. three recent photographs of the applicant; and

3. such other information and documentation as are referred to or specified in this Chapter, or as the board may require, to evidence qualification for certification.

F. All documents required to be submitted to the board must be the original thereof. For good cause shown, the board may waive or modify this requirement.

G. The board may refuse to consider any application which is not complete in every detail, including submission of every document required by the application form. The board may, in its discretion, require a more detailed or complete response to any request for information set forth in the application form as a condition to consideration of an application.

H. Each application submitted to the board shall be accompanied by the applicable fee, as provided in Chapter 1 of these rules.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270, R.S. 37:1281 and R.S. 37:3301-3312.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 12:524 (August 1986), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 24:938 (May 1998), LR 30:235 (February 2004).

§3131. Effect of Application

A. The submission of an application for certification to the board shall constitute and operate as an authorization by the applicant to each educational institution at which the applicant has matriculated, each governmental agency to which the applicant has applied for any license, permit, certificate, or registration, each person, firm, corporation, organization, or association by whom or with whom the applicant has been employed as an athletic trainer or apprentice athletic trainer, each physician whom the applicant has consulted or seen for diagnosis or treatment, and each professional or trade organization to which the applicant has applied for membership, to disclose and release to the board any and all information and documentation concerning the applicant which the board deems material to consideration of the application. With respect to any such information or documentation, the submission of an application for certification to the board shall equally constitute and operate as a consent by the applicant to disclosure and release of such information and documentation as a waiver by the applicant of any privileges or right of confidentiality which the applicant would otherwise possess with respect thereto.

B. By submission of an application for certification to the board, an applicant shall be deemed to have given his consent to submit to physical or mental examinations if, when, and in the manner so directed by the board if the board has reasonable grounds to believe that the applicant's capability to act as an athletic trainer with reasonable skill or safety to student athletes may be compromised by physical or mental condition, disease or infirmity, and the applicant shall be deemed to have waived all objections as to the admissibility or disclosure of findings, reports, or recommendations pertaining thereto on the grounds of privileges provided by law.

C. The submission of an application for certification to the board shall constitute and operate as an authorization and consent by the applicant to the board to disclose any information or documentation, set forth in or submitted with the applicant's application or obtained by the board from other persons, firms, corporations, associations, or governmental entities pursuant to §3131, to any person, firm, corporation, association, or governmental entity having a lawful, legitimate, and reasonable need therefor, including, without limitation, the athletic trainer certification or licensing authority of any state, the National Athletic Trainers Association, the Louisiana Athletic Trainers Association, the Louisiana Department of Health and Hospitals, state, county or parish, and municipal health and law enforcement agencies and the armed services.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3301-3312 and R.S. 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, LR 12:524 (August 1986), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 24:938 (May 1998).

Subchapter F. Examination

§3133. Designation of Examination

A. The examination administered and accepted by the board pursuant to R.S. 48:3303.B is the National Athletic Trainers Association Certification Examination developed by the NATA and the Professional Examination Service.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3301-3312.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, LR 12:524 (August 1986).

§3135. Eligibility for Examination

A. To be eligible for examination by the board, an applicant shall possess all qualifications for certification prescribed by this Chapter save for having successfully completed the examination; provided, however, that an

applicant who has completed, or prior to the next scheduled examination will complete, an athletic trainer or other curriculum or degree program required by this Chapter but who does not yet possess a degree or evidence of such completion shall be deemed eligible for examination upon submission to the board of a letter subscribed by the dean or other principal academic officer of an approved educational institution certifying that the applicant has completed the applicable curriculum or degree program or will have completed such curriculum or program prior to the board's next scheduled examination and specifying the date on which such curriculum will be completed or degree awarded.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3301-3312.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, LR 12:524 (August 1986).

§3137. Dates, Places of Examination

A. The board's examination is administered annually in the city of New Orleans. Applicants shall be advised of the specific date, time, and location of the next scheduled examination upon application to the board and may obtain such information upon inquiry to the office of the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3301-3312 and R.S. 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, LR 12:525 (August 1986), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 24:938 (May 1998).

§3139. Administration of Examination

A. The board's certification examination is administered by a chief proctor, appointed by the board, and one or more assistant proctors. The chief proctor is authorized and directed by the board to obtain positive photographic identification from all applicants appearing and properly registered for the examination, to establish and require examinees to observe an appropriate seating arrangement, to provide appropriate instructions for taking the examination, to fix and signal the time for beginning and ending the examination or the section thereof, to prescribe such additional rules and requirements as are necessary or appropriate to the taking of the examination in the interest of the examinees or the examination process, and to take all necessary and appropriate actions to secure the integrity of the examination and the examination process, including, without limitation, excusing an applicant for the examination or changing an applicant's seating location at any time during the examination.

B. An applicant who appears for examination shall:

1. present to the chief proctor or his designated assistant proctor proof of registration for the examination and positive personal photographic identification in the form prescribed by the board; and

2. fully and promptly comply with any and all rules, procedures, instructions, directions, or requests made or prescribed by the chief proctor.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3301-3312.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, LR 12:525 (August 1986).

§3141. Subversion of Examination Process

A. An applicant-examinee who engages or attempts to engage in conduct which subverts or undermines the integrity of the examination process shall be subject to the sanctions specified in §3145 of this Chapter.

B. Conduct which subverts or undermines the integrity of the examination process shall be deemed to include:

1. refusing or failing to fully and promptly comply with any rules, procedures, instructions, directions, or requests made by the chief proctor or an assistant proctor;

2. removing from the examination room or rooms any of the examination materials;

3. reproducing or reconstructing, by copying, duplication, written notes or electronic recording, any portion of the certification examination;

4. selling, distributing, buying, receiving, obtaining, or having unauthorized possession of a future, current, or previously administered certification examination;

5. communicating in any manner with any other examinee or any other person during the administration of the examination;

6. copying answers from another examinee or permitting one's answers to be copied by another examinee during the administration of the examination;

7. having in one's possession during the administration of the examination any materials or objects other than the examination materials distributed, including, without limitation, any books, notes, recording devices, or other written, printed, or recorded materials or data of any kind;

8. impersonating an examinee by appearing for and as an applicant and taking the examination for, as and in the name of an applicant other than himself;

9. permitting another person to appear for and take the examination on one's behalf and in one's name; or

10. engaging in any conduct which disrupts the examination or the taking thereof by the other examinees.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3301-3312.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, LR 12:525 (August 1986).

§3143. Finding of Subversion

A. When, during the administration of examination, the chief proctor or any assistant proctor has reasonable cause to believe that an applicant-examinee is engaging or attempting to engage, or has engaged or attempted to engage, in conduct which subverts or undermines the integrity of the examination process, the chief proctor shall take such action as he deems necessary or appropriate to terminate such conduct and shall report such conduct in writing to the board.

B. In the event of suspected conduct described in §3141.B.5 or 6, the subject applicant-examinee shall be permitted to complete the examination, but shall be removed at the earliest practical opportunity to a location precluding such conduct.

C. When the board, upon information provided by the chief proctor, an assistant proctor, an applicant-examinee, or any other person, has probable cause to believe that an applicant has engaged or attempted to engage in conduct which subverts or undermines the integrity of the examination process, the board shall so advise the applicant in writing, setting forth the grounds for its finding of probable cause, specifying the sanctions which are mandated or permitted for such conduct by §3145 of this Subchapter and provide the applicant with an opportunity for hearing pursuant to R.S. 49:955-58 and applicable rules of the board governing administrative hearings. Unless waived by the applicant, the board's findings of fact, conclusions of law under these rules, and its decision as to the sanctions, if any, to be imposed shall be made in writing and served upon the applicant.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3301-3312.
HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, LR 12:525 (August 1986).

§3145. Sanctions for Subversion of Examination

A. An applicant who is found by the board, prior to the administration of the examination, to have engaged in conduct or to have attempted to engage in conduct which subverts or undermines the integrity of the examination process may be permanently disqualified from taking the examination and from certification as an athletic trainer in the state of Louisiana.

B. An applicant-examinee who is found by the board to have engaged or to have attempted to engage in conduct which subverts or undermines the integrity of the examination process shall be deemed to have failed the examination. Such failure shall be recorded in the official records of the board.

C. In addition to the sanctions permitted or mandated by §3145.A and B, as to an applicant-examinee found by the board to have engaged or to have attempted to engage in conduct which subverts or undermines the integrity of the examination process, the board may:

1. revoke, suspend, or impose probationary conditions on any certification issued to such applicant;

2. disqualify the applicant, permanently or for a specified period of time, from eligibility for certification in the state of Louisiana; or

3. disqualify the applicant, permanently or for a specified number of subsequent administrations of the examination, from eligibility for examination.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3301-3312.
HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, LR 12:525 (August 1986).

§3147. Passing Score

A. An applicant will be deemed to have successfully passed the examination if he attains a score of at least 60; provided, however, that with respect to any given administration of the examination, the board may determine to accept a lower score as passing.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3301-3312.
HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, LR 12:525 (August 1986).

§3149. Restriction, Limitations on Examinations

A. An applicant having failed to attain a passing score upon taking the certification examination four times shall not thereafter be considered for certification and shall not be eligible to take the examination again.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3301-3312.
HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, LR 12:525 (August 1986).

§3151. Lost, Stolen, or Destroyed Examinations

A. The submission of an application for examination by the board shall constitute and operate as an acknowledgment and agreement by the applicant that the liability of the board, its members, committees, employees and agents, and the state of Louisiana to the applicant for the loss, theft, or destruction of all or any portion of an examination taken by the applicant, prior to the reporting of scores thereon by the Professional Examination Service or NATA shall be limited exclusively to the refund of the fees paid for examination by the applicant.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3301-3312.
HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, LR 12:526 (August 1986).

Subchapter G. Certificate Issuance, Termination, Renewal, Reinstatement

§3153. Issuance of Certificate

A. If the qualifications, requirements, and procedures prescribed or incorporated by §§3105 or 3107 and §3129 are met to the satisfaction of the board, the board shall issue to the applicant a certificate evidencing the applicant's certification as a certified athletic trainer in the state of Louisiana.

B. A certificate issued by the board on the basis of examination by the board shall be issued by the board within 30 days following the reporting of the applicant's certification scores to the board. A certificate issued to an applicant not required to be examined by the board shall be issued by the board within 15 days following the meeting of the board next following the date on which the applicant's application, evidencing all requisite qualifications, is completed in every respect.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3301-3312.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, LR 12:526 (August 1986).

§3155. Expiration of Certificates

A. Every certificate issued by the board under this Chapter shall expire, and thereby become null, void, and to no effect, on the thirtieth day of June next following the date on which certificate was issued.

B. The timely submission of an application for renewal of a certificate, as provided by §3157 hereof, shall operate to continue the expiring certificate in force and effect pending the board's issuance, or denial of issuance, of the renewal certificate.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3301-3312.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, LR 12:526 (August 1986).

§3157. Renewal of Certificate

A. Every certificate issued by the board under this Subchapter shall be renewed annually on or before its date of expiration by submitting to the board an application for renewal, upon forms supplied by the board, together with evidence of the qualifications requisite to renewal as specified in §3159 and the applicable renewal fee prescribed in Chapter 1 of these rules.

B. An application for renewal of certificate shall be mailed by the board to each person holding a certificate issued under this Chapter on or before the first day of June of each year. Such form shall be mailed to the most recent address of each certified athletic trainer as reflected in the official records of the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270, R.S. 37:1281 and R.S. 37:3301-3312.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 12:526 (August 1986), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 30:235 (February 2004).

§3159. Qualifications for Renewal; Continuing Education

A. To be eligible for renewal of certification, a certified athletic trainer shall, within each two-year period during which he holds certification, successfully complete 24 credits/hours of continuing education recognized by the NATA and shall biannually evidence such continuing education upon forms prescribed by the board to be submitted by an applicant for certificate renewal together with the renewal application.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3301-3312.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, LR 12:526 (August 1986).

§3161. Reinstatement of Certification

A. A certificate which has expired without renewal may be reinstated by the board if application for reinstatement is made not more than two years from the date of expiration and subject to the conditions and procedures hereinafter provided.

B. An application for reinstatement shall be made upon forms supplied by the board and accompanied by two letters of recommendation from responsible officers of the applicant's last employment as an athletic trainer, together with the applicable renewal fee plus a penalty equal to twice the renewal fee.

C. With respect to an application for reinstatement made more than one year from the date on which the certificate expired, as a condition of reinstatement the board may require that the applicant complete a statistical affidavit upon a form provided by the board, provide the board with a recent photograph, and/or possess current, unrestricted certification or licensure issued by another state.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3301-3312.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, LR 12:526 (August 1986).

§3162. Restricted Certificates

A. General. With respect to applicants who do not meet or possess all of the qualifications and requirements for certification required by this Chapter the board may, in its discretion, issue such temporary restricted certificates as are in its judgment necessary or appropriate to its responsibilities under law. Temporary restricted certificates shall be designated and known as permits.

B. Effect of Permit. A permit entitles the holder to engage in the practice of athletic training in the state of Louisiana only for the period of time specified by such permit and creates no right or entitlement to certification or renewal of the permit after its expiration.

C. Types of Permits. The types of permits that the board may consider issuing are enumerated in the following paragraphs of this Section. Other permits may be issued by the board upon such terms, conditions, limitations, or restrictions as to time, place, nature, and scope of practice as deemed, in its judgment, necessary or appropriate to the particular circumstances of individual applicants.

D. Limitations. Athletic trainers holding any permit issued under this Section may practice athletic training only under the supervision and direction of a certified athletic trainer who holds certification issued by the board, who shall provide such on-premises supervision and direction to the permit holder as is adequate to ensure the safety and welfare of athletes. Such supervision and direction shall be deemed to be satisfied by on-premises direction and supervision for not less than one hour each week.

E. Permit Pending Application for Visa. The board may issue a permit to practice athletic training to an applicant who is otherwise completely qualified for certification as an athletic trainer, save for possessing an H-1 or equivalent visa, provided that the applicant has completed all applicable requirements and procedures for issuance of certification or a permit and is eligible for an H-1 or equivalent visa under the rules and regulations promulgated by the United States Immigration and Naturalization Service (INS).

1. A permit issued under §3162.E shall expire and become null and void on the earlier of:

a. 90 days from the date of issuance of such permit;

b. 10 days following the date on which the applicant receives notice of INS action granting or denying the applicant's petition for an H-1 or equivalent visa; or

c. the date on which the board gives notice to the applicant of its final action granting or denying issuance of certification to practice athletic training.

2. The board may in its discretion extend or renew, for one or more additional 90-day periods, a permit that has expired pursuant to §3162.E.1.a in favor of an applicant who holds such a permit and who has filed a petition for an H-1 or equivalent visa with the INS, but whose pending petition has not yet been acted on by the INS within 90 days from issuance of such permit.

F. Permit Pending Examination/Results. The board may issue a permit to practice athletic training to an applicant who has taken the examination required by §3107.A.4 but whose scores have not yet been reported or to an applicant scheduled to take the examination at its next administration who has not previously failed such examination, to be effective pending the reporting of such scores to the board, provided that the applicant possesses and meets all of the qualifications and requirements for certification required under this Chapter, save for having taken, passed, or received the results of the examination specified in §3107.A.4.

1. A permit issued under §3162.F shall expire, and thereby become null, void and to no effect on the earlier of any date that:

a. the board gives written notice to the permit holder that he has failed to achieve a passing score on the certification examination;

b. the board gives written notice to the permit holder pursuant to §3143.C that it has probable cause to believe that he has engaged or attempted to engage in conduct which subverted or undermined the integrity of the examination process;

c. the permit holder is issued a certificate to practice athletic training pursuant to §3153 of this Chapter; or

d. the holder of a permit issued under §3162.F fails to appear for and take the certification examination for which he has registered.

2. The board may, in its discretion, extend or renew a permit which has expired pursuant to §3162.F.1 in favor of an applicant who makes written request to the board and evidences to its satisfaction a life-threatening or other significant medical condition, financial hardship or other extenuating circumstance.

G. Permit Pending Application. The board may issue a permit to practice athletic training, effective for a period of 60 days, to an applicant who has made application to the board for certification as an athletic trainer, who provides satisfactory evidence of having successfully completed the examination required by §3107.A.4 and who is not otherwise demonstrably ineligible for certification under R.S. 37:3307.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1261-1292, R.S. 37:1270, R.S. 37:3301-3312 and R.S. 37:3303.A(4).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 28:830 (April 2002).

Subchapter H. Continuing Education

§3163. Scope of Subchapter

A. The rules of this Subchapter provide standards for the continuing education requisite to renewal of certification as an athletic trainer as required by §§3159 and 3165 of these rules and prescribe the procedures applicable to documentation of continuing education in connection with application for renewal of certification.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(B) and R.S. 37:3303.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 16:510 (June 1990).

§3165. Continuing Education Requirement

A. To be eligible for renewal of certification, a certified athletic trainer shall, within each two-year period during which he holds certification, evidence and document, upon forms supplied by the board, successful completion of not less than 2.4 continuing education units. A continuing education unit (CEU) constitutes 10 hours of participation in an organized continuing education experience under responsible sponsorship, capable direction, and qualified instruction, as approved by the board; one hour is equal to one-tenth of a continuing education unit.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(B) and R.S. 37:3303.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 16:510 (June 1990).

§3167. Qualifying Programs and Activities

A. To be acceptable as qualified continuing education under these rules, an activity or program must have significant intellectual or practical content, dealing primarily with matters related to athletic training, and its primary objective must be to maintain or increase the participant's competence as an athletic trainer.

B. The following programs and activities shall be deemed approved by the board for the number of continuing education units indicated.

1. A certified athletic trainer who is certified by and a member of the NATA shall receive credit for that number of continuing education units awarded or recognized by the NATA for attendance at or participation in any meeting, conference, workshop, seminar, course, or other activity held or conducted during the two-year period preceding renewal of certification.

2. One-tenth of a CEU shall be recognized for each hour of attendance at a course, seminar, or workshop sponsored by an organization or entity approved by the board and otherwise meeting the standards prescribed by §3167.A.

3. Six-tenths of a CEU shall be recognized for each instructional hour of presentation in the initial teaching, presentation, or conduct of a course, seminar, or workshop sponsored by an organization or entity approved by the board and otherwise meeting the standards prescribed by §3167.A, provided that such presentation is accompanied by thorough written materials or a comprehensive outline relating to the course, seminar, or workshop. Three-tenths of a CEU shall be recognized for each instructional hour of presentation for any subsequent teaching, presentation, or conduct of the same course, seminar, or workshop.

4. For the teaching of a course in or directly related to athletic training at an accredited educational institution, eight-tenths of a CEU shall be recognized for each hour of academic credit awarded by the institution to students for attendance at the course, provided that such teaching is not performed in the ordinary course of the certified athletic trainer's usual and ordinary employment.

5. One and one-half CEUs shall be recognized for publication, in a national, regional, or statewide scientific journal or other publication of a related profession, of an original written work, related to the maintenance or improvement of athletic training knowledge or skills, and otherwise meeting the standards prescribed by §3167.A.

6. One-half of a CEU shall be recognized for each credit hour obtained in a course of postgraduate study beyond the bachelors degree level undertaken and completed at an accredited educational institution, provided that such course of study meets the standards prescribed by §3167.A.

7. Three-tenths of a CEU shall be recognized for the completion of a correspondence course sponsored and offered by an organization or entity approved by the board and meeting the standards prescribed by §3167.A.

8. One-half of a CEU shall be recognized for each year during which a certified athletic trainer, individually or jointly with one or more other certified athletic trainers, assumes responsibility for and discharges supervision of an apprentice or student athletic trainer for a full calendar year.

9. One-tenth of a CEU shall be recognized for each contact hour spent, by members in attendance at the annual meeting of the Louisiana Athletic Trainers' Association (LATA).

10. One-half of a CEU shall be recognized for each full year during which a certified athletic trainer serves as an elected or appointed officer or committee chairman of the LATA.

11. Two CEUs shall be recognized for each two weeks of volunteer service provided by a certified athletic trainer to any United State Olympic Committee-sponsored training center.

C. In addition to the programs and activities approved pursuant to §3167.B, upon application to the board pursuant to §3171 of these rules, the board may approve additional programs and activities as qualifying for continuing education unit credit and specify the CEUs which shall be recognized with respect to such program or activity.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(B) and R.S. 37:3303.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 16:510 (June 1990).

§3169. Continuing Education Subcommittee

A. The continuing education subcommittee of the advisory committee ("the CE subcommittee"), constituted under authority of §3104, shall have the authority and responsibility to:

1. evaluate organizations and entities providing or offering to provide continuing education programs for athletic trainers and provide recommendations to the board with respect to the board's recognition and approval of such organizations and entities as sponsors of qualifying continuing education programs and activities pursuant to §§3171 and 3173;

2. review documentation of continuing education by certified athletic trainers, verify the accuracy of such information, and evaluate and make recommendations to the board with respect to whether programs and activities evidenced by applicants for renewal of certification comply with and satisfy the standards for such programs and activities prescribed by these Rules;

3. request and obtain from applicants for renewal of certification such additional information as the committee may deem necessary or appropriate to enable it to make the evaluations and provide the recommendations for which the CE subcommittee is responsible.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(B) and R.S. 37:3303.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 16:511 (June 1990), amended LR 24:938 (May 1998).

§3171. Approval of Program Sponsors

A. Any program, course, seminar, workshop, or other activity meeting the standards prescribed by §3167.A sponsored or offered by the NATA or LATA shall be presumptively deemed approved by the board for purposes of qualifying as an approved continuing education activity under §3167.B.2, 3, and 7.

B. Upon the recommendation of the CE subcommittee, the board may designate additional organizations and entities whose programs, courses, seminars, workshops, or other activities shall be deemed approved by the board for purposes of qualifying as an approved continuing education activity under §3167.B.2, 3, and 7.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(B) and R.S. 37:3303.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 16:511 (June 1990), amended LR 24:939 (May 1998).

§3173. Approval of Activities

A. A continuing education activity of any type defined by §3167.B.2, 3, or 7 sponsored by an organization or entity not deemed approved by the board pursuant to §3171 or an activity of a type specified by §3167.B.4, 5, or 6 may be pre-approved by the board prior to participation in such activity or application for renewal of certification upon written request to the board therefor accompanied by a complete description of the nature, location, date, content, and purpose of such activity and such other information as the board may request to establish compliance of such activity with the standards prescribed by §3167.A.

B. Any such written request shall be referred by the board to the CE subcommittee for its recommendation. If the CE subcommittee's recommendation is against approval, the board shall give notice of such recommendation to the person requesting approval and the person requesting approval may appeal the CE subcommittee's recommendation to the board by written request delivered to the board within 10 days of such notice. The board's decision with respect to approval of any such activity shall be final. Persons requesting board preapproval of continuing education activities should allow not less than 90 days for such requests to be processed.

C. Prior approval of a continuing education activity by the board is not necessary for recognition of such activity by the board for purposes of meeting the continuing education requirements requisite to renewal of certification.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(B) and R.S. 37:3303.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 16:512 (June 1990), amended LR 24:939 (May 1998).

§3175. Documentation Procedure

A. A form for documenting and certifying the completion of continuing education as required by these rules shall be mailed by the board to each certified athletic trainer subject to continuing education requirements with the application for renewal of certification form mailed by the board pursuant to §3157 of these Rules. Such forms shall be completed and delivered to the board with certified athletic trainer's renewal application.

B. In lieu of or in addition to submission of the continuing education certification form supplied by the board, completion of all or part of the continuing education required by these rules may be satisfactorily evidenced, in whole or in part, by delivering or causing to be delivered to the board the original or a certified copy of a certification by the NATA as to CEU credits awarded or recognized by the NATA for continuing education activities undertaken and completed within the prior two-year period.

C. Any certification of continuing education activities not presumptively approved or preapproved in writing by the board pursuant to these rules shall be referred to the CE subcommittee for its evaluation and recommendations pursuant to §3169.A.2. If the CE subcommittee determines that an activity certified by an applicant for renewal in satisfaction of continuing education requirements does not qualify for recognition by the board or does not qualify for the number of continuing education units claimed by the applicant, the board shall give notice of such determination to the applicant for renewal and the applicant may appeal the CE subcommittee's recommendation to the board by written request delivered to the board within 10 days of such notice. The board's decision with respect to approval and recognition of any such activity shall be final.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(B) and R.S. 37:3303.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 16:512 (June 1990), amended LR 24:939 (May 1998).

§3177. Failure to Satisfy Continuing Education Requirements

A. An applicant for renewal of certification who fails to evidence satisfaction of the continuing education requirements prescribed by the rules shall be given written notice of such failure by the board. The certification of the applicant shall remain in full force and effect for a period of 60 days following the mailing of such notice, following which it shall be deemed expired, unrenewed, and subject to revocation without further notice, unless the applicant shall have, within such 60 days, furnished the board satisfactory evidence, by affidavit, that:

1. applicant has satisfied the applicable continuing education requirements;

2. applicant is exempt from such requirements pursuant to these rules; or

3. applicant's failure to satisfy the continuing education requirements was occasioned by disability, illness, or other good cause as may be determined by the board.

B. The certification of an athletic trainer whose certification has expired by nonrenewal or been revoked for failure to satisfy the continuing education requirements of these rules may be reinstated by the board upon written application to the board filed within two years of the effective date of expiration, nonrenewal, or revocation accompanied by satisfactory documentation of the completion of not less than three continuing education units within the prior two years and payment of a reinstatement fee, in addition to all other applicable fees and costs, of $50. Any continuing education activities recognized for purposes of reinstatement shall not be recognized for purposes of any subsequent renewal of certification.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(B) and R.S. 37:3303.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 16:512 (June 1990), amended LR 24:939 (May 1998).

§3179. Waiver of Requirements

A. The board may, in its discretion and upon the recommendation of the CE subcommittee, waive all or part of the continuing education required by these rules in favor of a certified athletic trainer who makes written request for such waiver to the board and evidences to the satisfaction of the board a permanent physical disability, illness, financial hardship, or other similar extenuating circumstances precluding the athletic trainer's satisfaction of the continuing education requirements.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(B) and R.S. 37:3303.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 16:513 (June 1990), amended LR 24:939 (May 1998).

Chapter 35. Clinical Laboratory Personnel

Subchapter A. Scope and Definitions

§3501. Scope and Purpose of Chapter

A. Scope of Chapter. The rules of this Chapter provide for and govern the licensure and certification of clinical laboratory personnel to practice clinical laboratory science in the state of Louisiana.

B. Declaration of Purpose. The purpose of these Rules and the law they implement is to protect the public health, safety, and welfare of the people of Louisiana from improper performance of laboratory tests by clinical laboratory personnel. Clinical laboratories provide essential services to health care practitioners by furnishing information vital to determination of the nature, cause, and extent of the condition involved. Licensure of laboratory personnel protects against the improper performance of laboratory tests by establishing and enforcing minimum requirements for safe practice.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(A)(5) and R.S. 37:1311-1329.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 20:1284 (November 1994).

§3503. Definitions

A. As used in this Chapter, the following terms are given the following meanings.

Approved Nationally Recognized Certification Examination an examination prepared and administered by a certifying organization approved by the board as satisfying the minimum examination qualifications for licensure or certification for each of the classifications of clinical laboratory personnel for which successful completion of a certifying examination is required as provided by the law and these rules.

Approved Professional Organizations an organization approved by the board to offer continuing education and/or training programs, and includes the following organizations:

a. American Society for Clinical Laboratory Science;

b. American Medical Technologists;

c. International Society for Clinical Laboratory Technology;

d. American Society of Clinical Pathologists;

e. American Society of Cytology;

f. American Society for Microbiology;

g. American Association of Blood Banks;

h. American Association of Clinical Chemistry;

i. Clinical Laboratory Management Association;

j. Association of Territorial and Public Health Laboratory Directors;

k. Centers for Disease Control;

l. National Accrediting Agency for Clinical Laboratory Sciences;

m. Gamma Biologicals Referred Immunohematology Self Evaluation System and Tutorial Program for Continuing Education of Blood Bankers;

n. affiliates of an organization identified by the board, upon recommendation of the committee, as an approved professional organization;

o. accredited colleges and universities;

p. American Society for Cytotechnology;

q. American Academy of Forensic Sciences;

r. Society of Forensic Testing; and

s. other organizations as may be approved by the board upon recommendation of the committee.

Approved School or *Training Program* a school or training program accredited by the Council on Medical Education of the American Medical Association, the National Accrediting Agency for Clinical Laboratory Sciences, or the Council on Allied Health Education Programs and approved by the committee and the board.

Board the Louisiana State Board of Medical Examiners.

CLIA the Clinical Laboratory Improvement Amendments of 1988, Public Law Number 100-578, and the rules and regulations promulgated pursuant thereto.

Clinical Cytotechnology the microscopic study or examination of body fluids, tissues, or cells desquamated from a body surface or lesion for the practice of clinical laboratory science including, but not limited to, detecting malignancy and microbiologic changes and the measurement of hormonal levels.

Clinical Laboratory any building, place, or facility in which an operation and procedure for the biological, microbiological, serological, immunological, chemical,

immunohematological, hematological, biophysical, cytological, pathological, or other examinations of materials derived from the human body is performed to provide information for the diagnosis, prevention, or treatment of any disease or impairment of, or the assessment of, the health of human beings, or for forensic testing.

Clinical Laboratory Personnel any and all individuals engaged in the practice of clinical laboratory science.

Clinical Laboratory Scientist-Generalist or *CLS-G* an individual who performs clinical laboratory tests and procedures in all specialty areas of a clinical laboratory which require the exercise of independent judgment and responsibility, including but not limited to, the performance of all laboratory tests as stated in CLIA. The clinical laboratory scientist-generalist may perform the functions of all categories of all clinical laboratory personnel licensed or certified in accordance with the law, except those of the cytotechnologist, without additional licensure or certification.

Clinical Laboratory Scientist-Specialist or *CLS-S* an individual performing clinical laboratory science in one or more laboratory specialties and who performs functions directly related to such particular laboratory specialty or specialties. A clinical laboratory scientist-specialist may perform the functions of the laboratory assistant and the phlebotomist without additional licensure or certification.

Clinical Laboratory Scientist-Technician or *CLS-T* an individual who performs medical laboratory tests and procedures of high and moderate complexity as defined in 42 Code of Federal Regulations, Part 493, within any area of clinical laboratory science, which do not require the exercise of independent judgment or responsibility. The clinical laboratory scientist-technician shall perform tests and procedures of high complexity under supervision as defined in CLIA. The clinical laboratory scientist-technician may perform the functions of the laboratory assistant and the phlebotomist without additional licensure or certification.

Committee the Clinical Laboratory Personnel Committee to the Louisiana State Board of Medical Examiners, as established and constituted under R.S. 37:1314.

Cytotechnologist an individual engaged in the practice of clinical cytotechnology which requires the exercise of independent judgment and responsibility.

Health Care Provider any person licensed, certified, or registered by a department, board, commission, or other agency of the state of Louisiana to provide preventive, diagnostic, or therapeutic health care services.

Independent Judgment the performance or conduct of clinical laboratory tests and assumption of responsibility for determination of the validity and interpretation of clinical laboratory test results without intervention by or the supervision of another health care provider authorized by law to assume responsibility for the conduct and validity of clinical laboratory tests. As respects clinical laboratory personnel, the authorized exercise of independent judgment shall not be deemed to include or permit the exercise of independent medical judgment in the diagnosis of or treatment of, or reporting of clinical laboratory test results or their interpretation to, patients except as authorized in accordance with CLIA.

Laboratory Assistant or *LA* an individual who performs medical laboratory tests and procedures under supervision by a licensed health care provider or laboratory director as defined in 42 Code of Federal Regulations, Part 493. Laboratory tests and procedures performed by the laboratory assistant do not require the exercise of independent judgment or responsibility within any area of clinical laboratory science. The laboratory assistant may perform high complexity tests under supervision as stated in CLIA.

Laboratory Specialty any category or subcategory recognized as a specialty by a certifying agency for the category of clinical laboratory scientist-specialist, including, but not limited to, the categories of hematology, microbiology, chemistry and blood bank, and the subcategories thereunder.

Louisiana Clinical Laboratory Personnel Law or *the Law* R.S. 37:1311-1329, as the same may be amended hereafter.

Phlebotomist an individual performing invasive procedures to withdraw blood samples from the human body for the practice of clinical laboratory science, including but not limited to, clinical laboratory testing for analysis and typing and cross-matching of blood for medical examination and human transfusion. A phlebotomist may perform and report results of any waived tests.

Practice of Clinical Laboratory Science the performance by any individual, other than a physician licensed by the board, of laboratory testing, analysis, or examination of human specimens.

Temporary License or *Temporary Certificate* a license or certificate issued to an individual that qualifies by education, experience, or training that will allow that individual to engage in the practice of clinical laboratory science at the appropriate level (CLS-G, CLS-S, CLS-T, laboratory assistant, cytotechnologist, or phlebotomist).

Trainee an individual who has not fulfilled the educational requirements to take an approved nationally recognized certification examination or who needs to obtain full-time comprehensive experience under supervision.

Waived Test those routine technical procedures performed under or eligible for a certificate of waiver under CLIA. An illustrative list of such routine technical procedures includes:

a. dipstick or tablet reagent urinalysis (nonautomated) for the following determination levels: bilirubin, glucose, hemoglobin, ketone, leukocytes, nitrite, pH, protein, specific gravity, or urobilinogen;

b. fecal occult blood;

c. ovulation tests-visual color tests for human luteinizing hormone;

d. urine pregnancy tests-visual color comparison tests;

e. erythrocyte sedimentation rate, nonautomated;

f. hemoglobin-copper sulfate, nonautomated;

g. blood glucose as determined by monitoring device approved by the Federal Drug Administration specifically for home use;

h. spun microhematocrit;

i. hemoglobin by single analyte instrument with self-contained or component features to perform specimen/reagent interaction providing direct measurement or readout.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(A)(5) and R.S. 37:1311-1329.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 20:1284 (November 1994).

Subchapter B. Licensure and Certification Requirements

§3505. Licensure or Certification Generally

A. On and after January 1, 1995, no individual shall act as, or perform the duties of a clinical laboratory scientist-generalist, clinical laboratory scientist-specialist, clinical laboratory scientist-technician, laboratory assistant, cytotechnologist, or phlebotomist unless such individual possesses a current license or certification issued by the board pursuant to this Chapter or is exempt from such licensure or certification as provided by §3507.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(A)(5) and R.S. 37:1311-1329.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 20:1285 (November 1994).

§3507. Exceptions to Licensure or Certification Requirements

A. The licensure and certification requirements of this Chapter shall not apply to:

1. clinical laboratory personnel practicing exclusively in, and in the course and scope of their employment by, a clinical laboratory operated by the United States government;

2. clinical laboratory personnel practicing exclusively in, and in the course and scope of their employment by, a nonprofit laboratory operated and maintained exclusively for instruction or research involving no individual patient or public health care service, provided the results of any examination performed in such laboratory are not used directly in the diagnosis, evaluation, or treatment of human disease or disorder;

3. any physician licensed by the board to practice medicine;

4. any individual working under the direction and supervision of a physician licensed by the board in an operating room, theater, emergency room, or intensive care unit;

5. any pulmonary function technician acting within the scope of performance of the practice of respiratory therapy;

6. any clinical perfusionist acting within the scope of practice of perfusion in the support, treatment, measurement, or supplementation of the cardiopulmonary and circulatory system of an individual patient;

7. any health care provider when acting within the scope of practice authorized by his or her licensure, certification, or registration;

8. any individual whose duties include only the performance of waived tests, whether performed in a physician's office laboratory, a hospital clinical laboratory, or at the point of care, and which do not require the exercise of independent judgment;

9. any individual performing phlebotomy or acting as a phlebotomist employed by or acting under the direction and supervision of a physician licensed by the board, a clinic operated by a health care provider authorized by license to perform clinical laboratory testing, a hospital, a nursing home, or other licensed health care facility authorized by licensure to perform clinical laboratory testing;

10. any individual whose duties may include demonstrating or instructing, or both, the use of any automated or digital instrument, device, machine, or similar mechanical equipment and related procedures utilized to assist in the practice of clinical laboratory science, provided the results furnished by such equipment during demonstration or instruction are not used in the diagnosis, evaluation, or treatment of human disease or disorder; or

11. individuals performing forensic testing and examinations of body fluids, tissues, cells, or blood solely for the purpose of law enforcement and the state's criminal justice system.

B. Any individual who is exempt from the requirement of licensure or certification under this Chapter, but who meets the qualifications for licensure or certification under this Chapter, including any individual performing clinical procedures for analysis of nonhuman specimens, shall be considered actively engaged in the practice of clinical laboratory science and may apply for licensure or certification as provided in this Chapter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(A)(5) and R.S. 37:1311-1329.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 20:1286 (November 1994).

§3509. Qualifications for Licensure and Certification

A. Clinical Laboratory Scientist-Generalist. To be eligible for licensure as a clinical laboratory scientist-generalist, an applicant, in addition to satisfaction

of the procedural requirements for licensure under this Chapter, shall have successfully completed an approved nationally recognized certification examination for such clinical laboratory personnel classification, as developed and administered by one of the following organizations:

1. American Society of Clinical Pathologists (ASCP);

2. National Certification Agency (NCA);

3. American Medical Technologists (AMT); or

4. International Society of Clinical Laboratory Technology (ISCLT) provided, however, that an applicant for licensure as a CLS-G who has, prior to January 1, 1995, successfully completed the certification examination for such clinical laboratory personnel classification developed and administered by the United States Department of Health, Education, and Welfare (HEW) (predecessor to the Department of Health and Human Services) shall also be eligible for licensure as a clinical laboratory scientist-generalist.

B. Clinical Laboratory Scientist-Specialist. To be eligible for licensure as a clinical laboratory scientist-specialist, an applicant, in addition to satisfaction of the procedural requirements for licensure under this Chapter, shall:

1. possess a baccalaureate or more advanced degree from an accredited college or university with a major in one of the chemical, physical, or biological sciences; and

2. have successfully completed an approved nationally recognized certification examination for such clinical laboratory personnel classification, as developed and administered by one of the following organizations:

a. American Society of Clinical Pathologists (ASCP);

b. National Certification Agency (NCA);

c. American Society of Microbiology (ASM);

d. American Association of Clinical Chemistry (AACC);

e. American Board of Immunology (ABI);

f. American Board of Bioanalysts (ABB); or

g. American Board of Forensic Toxicology (ABFT).

C. Clinical Laboratory Scientist-Technician. To be eligible for licensure as a clinical laboratory scientist-technician, an applicant, in addition to satisfaction of the procedural requirements for licensure under this Chapter, shall have successfully completed an approved nationally recognized certification examination for such clinical laboratory personnel classification, as developed and administered by one of the following organizations:

1. American Society of Clinical Pathologists (ASCP);

2. National Certification Agency (NCA);

3. American Medical Technologists (AMT); or

4. International Society of Clinical Laboratory Technology (ISCLT).

D. Cytotechnologist. To be eligible for licensure as a cytotechnologist, an applicant, in addition to satisfaction of the procedural requirements for licensure under this Chapter, shall:

1. possess a baccalaureate degree from an accredited college or university, fulfill the educational requirements necessary to enroll in a school of cytotechnology, complete one full year of full-time cytotechnology experience or its equivalent in an approved school of cytotechnology, and successfully complete an approved nationally recognized certification examination for such clinical laboratory personnel classification, as developed and administered by one of the following organizations:

a. American Society of Clinical Pathologists (ASCP); or

b. International Academy of Cytology (IAC);

2. have successfully completed an approved nationally recognized certification examination for such clinical laboratory personnel classification, as developed and administered by one of the following organizations:

a. American Society of Clinical Pathologists (ASCP); or

b. International Academy of Cytology (IAC).

E. Laboratory Assistant. To be eligible for licensure as a laboratory assistant, an applicant, in addition to satisfaction of the procedural requirements for licensure under this Chapter, shall:

1. possess a high school diploma or its equivalent;

2. document to the board, in a form sufficient to and upon the recommendation of the committee, training as evidence of competency in the basic practice of clinical laboratory science. For this purpose, successful completion of the certification examinations for laboratory assistants offered by the International Society of Clinical Laboratory Technology and the American Society of Clinical Pathologists shall be deemed a conclusive, but not the exclusive, means of documenting competency in the basic practice of clinical laboratory science;

3. prior to the performance of moderate complexity testing as provided in 42 CFR Part 493, have provided to the applicant's employer or laboratory director documentation of training appropriate for the testing performed. Such documentation shall ensure that the applicant has all of the following:

a. the skills required for proper specimen collection, including patient preparation, if applicable, labeling, handling, preservation or fixation, processing or preparation, transportation, and storage of specimens;

b. the skills required for implementing all standard laboratory procedures;

c. the skills required for performing each test method and for proper instrument use;

d. the skills required for performing preventive maintenance, troubleshooting, and calibration procedures related to each test performed;

e. a working knowledge of reagent stability and storage;

f. the skills required to implement the quality control policies and procedures of the laboratory;

g. an awareness of the factors that influence test results; and

h. the skills required to assess and verify the validity of patient test results through the evaluation of quality control sample values prior to reporting patient test results; and

4. have provided to the committee or board, upon good cause shown, the documentation of training appropriate for the moderate complexity testing to be performed as provided in §3509.E.3.

F. Phlebotomist. To be eligible for certification as a phlebotomist, an applicant, in addition to satisfaction of the procedural requirements for certification under this Chapter, shall:

1. have successfully completed a certification examination approved or written and administered by the board and the committee following completion of a training program for phlebotomists satisfactory to the board, upon recommendation of the committee, consisting of a minimum of 20 lecture hours or adequate practical hours to ensure that the applicant possesses:

a. the skills required for proper specimen collection, including patient identification and preparation, labeling, handling, preservation, processing, transportation, and storage of specimens;

b. the skills required for selecting the appropriate type of tube to collect for each test;

c. the skills required for performing preventive maintenance, troubleshooting, and calibration procedures related to each test performed;

d. a working knowledge of reagent stability and storage;

e. the skills required to perform quality control procedures;

f. an awareness of the factors that influence test results;

g. a working knowledge of the actions of various anticoagulants;

h. a working knowledge of the anatomy and physiology of blood vessels and the circulatory system and blood;

i. a working knowledge of the components and functions of those components of blood to include, RBC, WBC, platelets, and plasma or serum;

j. a working knowledge of primary hemostasis;

k. a working knowledge of laboratory safety to include OSHA standards for handling bloodborne pathogens;

l. a working knowledge of the various isolation procedures and infection control;

m. a working knowledge of various medical terms and laboratory tests;

n. a working knowledge of the requirements of special laboratory tests;

o. a working knowledge of the clinical laboratory;

p. a working knowledge of the major tests performed in the clinical laboratory and specimen requirements;

q. a working knowledge of aseptic techniques and methods of sterilization; and

r. completion of 100 successful venipunctures and 25 successful capillary collections; or

2. have successfully completed an approved nationally recognized certification examination for such clinical laboratory personnel classification, as developed and administered by one of the following organizations:

a. American Society of Clinical Pathologists (ASCP);

b. National Certification Agency (NCA);

c. American Society of Phlebotomy Technicians (ASPT);

d. National Phlebotomy Association (NPA);

e. American Medical Technologists (AMT);

f. American Association of Blood Banks;

g. National Allied Health Test Registry (NAHTR); or

h. International Academy of Phlebotomy Science (IAPS).

G. Annual Review of Certifying Examinations. The committee and the board shall annually review the eligibility criteria for examination by the named organizations specifically enumerated in this Section and, in the event that additional requirements are mandated by such organization which are inconsistent with the provisions of the law, including, but not limited to either the elimination of work experience (the educational career ladder track) or the attainment of any educational degree as an element of eligibility in order to take a certification examination, the committee and the board shall develop an alternative method of providing applicants with an appropriate certifying examination consistent with the law.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(A)(5) and R.S. 37:1311-1329.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 20:1286 (November 1994).

§3511. Licensure or Certification without Examination

A. Notwithstanding the examination requirements prescribed and required by §3509, provided that application is made within 12 months of the effective date of these rules, any individual who desires to be licensed as a CLS-G, CLS-S, CLS-T, cytotechnologist, or laboratory assistant may qualify for licensure and shall be issued the appropriate license without having to successfully complete an approved nationally recognized certification examination, upon application on a form provided by the board, payment of the required license fee, and submission of evidence of competency, which may include but does not require successful completion of an approved nationally recognized certifying examination, prior to the effective date of this Chapter, satisfactory to the committee and the board that the applicant:

1. has been actively engaged in the category for which the license is requested for at least two full years within the three years immediately prior to the effective date of these rules;

2. has ceased to engage in the practice of clinical laboratory science, but was actively engaged in such practice in the category for which license is requested for at least two full years immediately prior to inactivity, provided the applicant has not been inactive more than five years; or

3. was eligible for licensure without examination in accordance with either §3511.A.1 or 2 on the effective date of these rules and at that time was in the military forces of the United States.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(A)(5) and R.S. 37:1311-1329.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 20:1288 (November 1994).

§3513. Reciprocity

A. The board, upon recommendation of the committee, shall license, without examination, and upon payment of the prescribed license fee, an applicant for licensure who is duly licensed in the same or comparable category for which he or she is applying for licensure in this state under the laws of another state, territory, commonwealth, or the District of Columbia, if the qualifications for licensure of such applicant in such category are at least equal to the qualifications provided in this Chapter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(A)(5) and R.S. 37:1311-1329.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 20:1288 (November 1994).

§3515. Trainee License

A. Generally. A trainee who engages in the practice of clinical laboratory science in any category for which a license is required shall be required to apply for and obtain a trainee license in the category corresponding to the work performed. All work performed by a trainee under a trainee license shall be under the direct supervision of clinical laboratory personnel licensed as either CLS-G, CLS-S, or cytotechnologist.

B. Exception. §3515.A shall not apply to a trainee who engages in the practice of clinical laboratory science exclusively through an approved school or training program.

C. Licensure Period; Renewal. A trainee license issued in accordance with these regulations shall be effective for the calendar year beginning January 1 and ending December 31 in which it is issued, and may be renewed for up to three additional years provided the trainee remains enrolled in an approved school or training program.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(A)(5) and R.S. 37:1311-1329.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 20:1288 (November 1994).

§3517. Returning Practitioners

A. Generally. An applicant who has been certified in the practice of clinical laboratory science by passing an approved nationally recognized certification examination, but who has not engaged in the practice of clinical laboratory science within the 10 years preceding application and who has not fulfilled the continuing education requirements of this Chapter, shall be granted a trainee license in the category for which the applicant is otherwise qualified.

B. Eligibility for Full Licensure. A returning practitioner who has been granted a trainee license in accordance with §3517.A shall be eligible and may apply for full licensure upon completion of 12 continuing education hours as provided in §3533 of these rules and documentation of competency by the director of the retraining facility or his or her designee. Supervised retraining must be under the direct supervision of clinical laboratory personnel licensed as either CLS-G, CLS-S, or cytotechnologist.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(A)(5) and R.S. 37:1311-1329.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 20:1288 (November 1994).

§3519. Temporary License or Certificate

A. Generally. Applicants that qualify by education, experience, or training but have not taken or passed an approved nationally recognized certification examination may be granted a temporary license or temporary certificate that will allow that individual to engage in the practice of clinical laboratory science at the appropriate level (CLS-G, CLS-S, CLS-T, cytotechnologist, or phlebotomist). The temporary license or certificate will be valid for six months.

B. Failure to Pass Examination; Renewal. A temporary license or temporary certificate issued pursuant to this Section may be renewed one time upon failure to pass an approved nationally recognized certification examination. Such renewal shall be effective for six months. Applicants who fail to pass the appropriate approved nationally recognized certification examination a second time may not renew their temporary license or temporary certificate. Such applicants shall:

1. refrain from the practice of clinical laboratory science until successful completion of an appropriate approved nationally recognized certification examination;

2. complete a supervised retraining program and, upon submitting evidence satisfactory to the board of completion of such program, apply for a new temporary license or temporary certificate in the same category; or

3. apply for a temporary license or temporary certificate for the practice of clinical laboratory science at a lower level of complexity.

C. Failure to Appear. Applicants who do not appear to take an approved nationally recognized certification examination for which they are registered shall not receive a second temporary license or temporary certificate and the temporary license or temporary certificate held shall be invalid as of that date (unless extension is approved by the board, upon recommendation of the committee, due to mitigating circumstances). Such applicants may, however:

1. reapply for full licensure upon successful completion of an approved nationally recognized certification examination; or

2. apply for a temporary license or temporary certificate for the practice of clinical laboratory science at a lower level of complexity.

D. Foreign-Trained Applicants. An applicant basing eligibility for a temporary license or temporary certificate upon a degree from a foreign university must have his or her transcript validated and evaluated by an acceptable foreign transcript evaluation agency listed as an Appendix to this Chapter (§3545). That evaluation must be submitted to the national certifying agency offering the approved nationally recognized certification examination for which the applicant wishes to sit. The committee will not evaluate or validate foreign transcripts. Upon notification of acceptance to sit for such examination, the applicant may apply for a temporary license or temporary certificate in the corresponding category. A copy of the letter stating that the applicant is eligible to sit for an approved nationally recognized certification examination must accompany the application for temporary license or temporary certificate. Agencies approved by and acceptable to the board and the committee for purposes of validating and evaluating transcripts from foreign universities are listed in an Appendix to these rules (§3545).

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(A)(5) and R.S. 37:1311-1329.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 20:1289 (November 1994).

§3521. Reinstatement of Lapsed License or Certificate

A. An individual whose license has lapsed and who has not been actively engaged in the practice of clinical laboratory science during the preceding period of not more than seven years may have his or her license or certificate reinstated upon payment of the renewal fee and the delinquent fee provided in §3529 and submission of evidence satisfactory to the board that during the lapsed period he or she fulfilled the continuing education requirements of this Chapter. An individual whose license has lapsed and who has not been actively engaged in the practice of clinical laboratory science for a period of more than seven years, but not more than 10 years, shall be subject to the provisions in §3517 provided that any such individual may petition the committee, for good cause shown, for a reduction or waiver of the continuing education and/or supervised retraining requirements of §3517.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(A)(5) and R.S. 37:1311-1329.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 20:1289 (November 1994).

Subchapter C. Procedures for Obtaining Licensure or Certification

§3523. Issuance

A. If an applicant meets the qualification requirements of this Chapter for the category in which the license or certificate is requested and otherwise complies with the requirements of this Chapter, the board shall issue the applicant a license or certificate for the practice of clinical laboratory science within the specific category of licensure or certification for which the applicant qualifies.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(A)(5) and R.S. 37:1311-1329.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 20:1289 (November 1994).

§3525. Application

A. General Requirements. Application for licensure or certification under this Chapter shall be made on a form supplied by the committee. Such form, and any supporting documentation required to be submitted therewith, shall provide information sufficient to assure the applicant satisfies the minimum qualifications for the category of licensure or certification applied for.

B. Applicant for Licensure as CLS-G, CLS-S, CLS-T, or Cytotechnologist. Each application for licensure as a CLS-G, CLS-S, CLS-T, or cytotechnologist shall be accompanied by all of the following:

1. a recent photograph for identification;

2. the appropriate fee;

3. a copy of the registration or certification card indicating successful completion of an approved nationally recognized certification examination;

4. for non-U.S. citizen applicants, proof of lawful entry into the country; and

5. if the requested licensure or certification is based on reciprocity as provided in §3513, a statement from the licensing authority of the other state attesting to the licensure status of the applicant in the other state. Such statement shall be issued directly to the committee from the licensing authority of the other state.

C. Application for Licensure as a Laboratory Assistant. Each application for licensure as a laboratory assistant shall be accompanied by all of the following:

1. a recent photograph for identification;

2. the appropriate fee;

3. evidence of completion of a satisfactory training program;

4. copy of a high school diploma or equivalent; and

5. if moderate complexity testing is to be performed, documentation of competency in the area of testing to be performed.

D. Application for Certification as a Phlebotomist. Each application for certification as a phlebotomist shall be accompanied by all of the following:

1. a recent photograph for identification;

2. the appropriate fee; and

3. evidence of completion of a satisfactory training program and successful completion of a board-approved or administered certifying examination or successful completion of an approved nationally recognized certification examination.

E. Multiple Licensure. An applicant may be licensed or certified in each category for which he or she is qualified.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(A)(5) and R.S. 37:1311-1329.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 20:1289 (November 1994).

§3527. Expiration and Renewal of Licenses and Certificates

A. Expiration. Every license or certificate issued by the board under this Chapter, the expiration date of which is not stated thereon or otherwise provided by these rules, shall expire, and thereby become null, void, and to no effect, on the last day of the year in which such license or certificate was issued.

B. Continuation Pending Renewal. The timely submission of a properly completed application for renewal of a license or certificate, as provided by §3527.C, shall operate to continue the expiring license or certificate in full force and effect pending the board's issuance or refusal to issue the renewal license or certificate. The committee may recommend and the board may continue a license or certificate in effect, without application for renewal or payment of the renewal fee for any clinical laboratory personnel licensed or certified under this Chapter while the individual is in active military service of the United States or any of its allies, upon notification by the licensee to the committee of such service.

C. Renewal. Every license and certificate issued by the board under this Chapter shall be renewed annually on or before the date of its expiration by submitting to the board a properly completed application for renewal, upon forms supplied by the board, together with the renewal fee prescribed by §3529 of this Chapter. An application for renewal of license or certificate form shall be mailed by the board to each person holding a license or certificate issued under this Chapter on or before November 15 of each year.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(A)(5) and R.S. 37:1311-1329.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 20:1290 (November 1994).

§3529. Fees

A. General Provisions. Except as provided in §3529.B, the fee for obtaining or renewing a license or certificate as provided in this Chapter shall be as follows.

1.	Clinical laboratory scientist (all categories)	$50
2.	Cytotechnologist	$50
3.	Laboratory assistant	$25
4.	Phlebotomist	$25

B. Exceptions

1. Delinquent Fee. In addition to the fee prescribed by §3529.A, any individual who fails to renew his or her license or certificate by January 1 shall be charged a delinquent fee of $50.

2. Duplicate Fee. The fee for obtaining a duplicate license or certificate shall be $10.

3. Temporary License or Certificate. The fee for obtaining a temporary license or temporary certificate shall be the amount of the fee prescribed by §3529.A for the category for which such license or certificate is to be issued.

4. Trainee License. If an individual is required to obtain or renew a trainee license in accordance with this Chapter, the fees for obtaining or renewing such trainee license shall be the fee prescribed by §3529.A for the category under which such trainee license is issued.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(A)(5) and R.S. 37:1311-1329.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 20:1290 (November 1994).

Subchapter D. Continuing Education

§3531. General Requirement

A. All clinical laboratory personnel licensed or certified under this Chapter shall satisfy the continuing education requirements of this Subchapter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(A)(5) and R.S. 37:1311-1329.
HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 20:1290 (November 1994).

§3533. Minimum Hours

A. Effective January 1, 1995, every person licensed or certified under this Chapter shall complete a minimum of 12 contact hours of continuing education (1.2 Continuing Education Units, or CEUs) each calendar year. No carryover credit shall be allowed for excess credit earned in one calendar year to the next calendar year. One CEU equals 10 contact hours of participation in an organized education experience, under responsible sponsorship, capable direction, and qualified instruction.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(A)(5) and R.S. 37:1311-1329.
HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 20:1291 (November 1994).

§3535. Credit Hours Awarded

A. Except as otherwise provided, one hour of continuing education credit shall be awarded for the first contact hour of a continuing education program. Thereafter, for programs lasting longer than one hour, one continuing education hour shall be awarded for every 50 contact minutes. No credit shall be awarded for partial completion of a program (i.e., no credit shall be awarded for one hour attendance at a three-hour continuing education program).

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(A)(5) and R.S. 37:1311-1329.
HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 20:1291 (November 1994).

§3537. Sources of Continuing Education

A. Deemed Approved. The following sources of continuing education shall be deemed approved for purposes of satisfying the continuing education requirements of this Chapter without prior submission to the committee or board:

1. professional meetings sponsored by approved professional organizations;

2. audio conferences sponsored by approved professional organizations;

3. teleconferences and videoconferences sponsored by approved professional organizations;

4. self-study courses sponsored by approved professional organizations;

5. training programs sponsored by medical technology instrument manufacturers;

6. coursework relevant to the practice of clinical laboratory science at an accredited college or university. A completed full-credit course shall qualify for six Category 2 continuing education hours. A course qualifying for less than full-credit shall be pro-rated and continuing education credit awarded appropriately;

7. publication of an article in a professional journal. A published article shall qualify for six continuing education hours;

8. presentation of a poster or program at a local, state, regional, national, or international meeting or program, with a poster presentation qualifying for two continuing education hours and other presentations qualifying for twice the credit for attendees of the presentation, but without credit for repeat poster sessions or presentations;

9. laboratory sessions such as role playing, buzz sessions, product preparation, or a "wet workshop" that have been approved by the board, upon recommendation of the committee, for continuing education credit, with participants in such sessions credited with one hour of continuing education credit in accordance with §3535; and

10. continuing education programs sponsored and presented by the committee.

B. Other Continuing Education Sources. In addition to the sources of continuing education deemed approved for continuing education credit without prior submission to the committee or board, such other programs or events that satisfy the standards set forth in §3539 and have been submitted to the board for approval in accordance with the procedures provided in §3541 shall, upon recommendation of the committee, be approved for continuing education credit as a continuing education source.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(A)(5) and R.S. 37:1311-1329.
HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 20:1291 (November 1994).

§3539. Standards for Continuing Education

A. Any continuing education offering submitted to the board for consideration as an approved source of continuing education credit shall meet the following standards:

1. provide a structured learning experience;

2. provide appropriate subject matter reflecting the professional educational needs for continuing competency in the practice of clinical laboratory science from one or more of the following subject areas:

a. clinical laboratory practice areas;

b. legal aspects of laboratory medicine;

c. educational methodology as utilized in the clinical laboratory; or

d. laboratory safety, bloodborne pathogens, and chemical hygiene;

3. have written learning objectives, stated in terms of actions, conditions, and degree related to level of audience (Basic, Intermediate, Advanced);

4. have a set time schedule and be at least one hour in length;

5. have qualified faculty with background and experience necessary to teach the subject. Copies of credentials shall be available to the board upon request;

6. include assessment and evaluation mechanisms to ensure that participants have achieved a specified level of performance and to provide for evaluation of instructional methods, facilities, and resources used;

7. make available a brochure or flyer containing the following information:

a. the program objectives stated in terms of what the participant will learn or be able to do as a result of the program;

b. the program level:

i. basic: entry level; no prior knowledge of subject necessary;

ii. intermediate: refresher course; some basic knowledge required; for the bench technologist with several years of experience;

iii. advanced: highly technical: for those with current skills/ knowledge; for those with at least two years experience in specialty area;

c. program schedule;

d. fee for the program if applicable;

e. number of CEUs or continuing education hours granted;

f. faculty credentials;

g. include the following statement:

"[Provider Name] is approved as a Provider of continuing education programs in the clinical laboratory sciences by the Clinical Laboratory Personnel Committee to the Louisiana State Board of Medical Examiners."

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(A)(5) and R.S. 37:1311-1329.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 20:1291 (November 1994).

§3541. Procedures for Obtaining Approval as a Continuing Education Source

A. Single Program Approval. A program sponsor may be approved for a single program pursuant to the following procedures.

1. Not less than 120 days prior to the scheduled date of the proposed program, the program sponsor shall request approval of the program as a source of continuing education credit from the committee. Such request shall be submitted on a form recommended by the committee and approved by the board.

2. The committee shall review and evaluate the request for compliance with the standards for continuing education provided in §3539.

3. The committee shall determine whether the proposed program complies with the standards for continuing education in all material respects. If the committee determines that the program does not comply with the standards for continuing education, the program sponsor shall be so notified in writing within 60 days of the committee's receipt of the form requesting approval. If the committee determines that the program complies with the standards for continuing education, then committee shall recommend to the board that the program be approved as a source of continuing education credit.

4. The program sponsor shall be notified in writing of the board's approval or nonapproval of the program as a source of continuing education credit within 60 days of the committee's receipt of the form requesting approval. If the program is not approved, the notice shall include the reason or reasons for nonapproval.

5. Upon approval, the program shall be assigned a program identification number. The program sponsor shall be notified of the identification number and reference such number on all correspondence with the committee or board concerning that program.

6. The program sponsor shall provide each participant in the program with an authenticated certificate or letter of attendance.

7. The program sponsor shall maintain records of the program, including content, faculty, attendance, assessment, and evaluation for a period of not less than two years.

8. The program sponsor shall provide satisfactory proof of any individual's attendance at the program upon the committee's request.

B. Multiple Program Approval. A program sponsor may be approved for multiple program offerings. An approved sponsor need not submit each program offered for approval, but each program shall be considered an approved source of continuing education credit. The following procedures shall be applicable for approval of a sponsor as a sponsor or multiple programs for continuing education credit.

1. The sponsor shall request approval as a sponsor of multiple continuing education programs from the committee. Such request shall be submitted on a form recommended by the committee and approved by the board.

2. The sponsor shall certify that each continuing education program offered shall comply with the standards for continuing education provided in §3539.

3. The sponsor shall designate an individual who shall be responsible for continuing education programs for clinical laboratory personnel.

4. The sponsor shall establish a comprehensive plan for ongoing evaluation of the content, faculty, and assessment tools used for each program and for compliance of all continuing education offerings with the standards for continuing education provided in §3539. Such plan shall be submitted to the committee for review with the sponsor's request for approval.

5. The sponsor shall certify that each participant in each program will be provided with an authenticated certificate or letter of attendance.

6. The sponsor shall certify that records of each continuing education program offered, including content, faculty, attendance, assessment, and evaluation shall be maintained for a period of not less than two years.

7. The sponsor shall certify that satisfactory proof of any individual's attendance at a program shall be maintained for not less than two years and shall be available to the committee on request.

8. The committee shall determine whether the sponsor has complied with the requirements for approval as a sponsor of multiple programs for continuing education credit. If the committee determines that the sponsor has not complied with such requirements, the sponsor shall be so notified within 60 days of receipt of the form requesting approval. If the committee determines that the sponsor has complied with such requirements, the committee shall recommend to the board that the sponsor be approved as a sponsor for multiple continuing education programs.

9. The sponsor shall be notified in writing of the board's approval or nonapproval of the sponsor as a sponsor for multiple continuing education programs within 90 days of the committee's receipt of the form requesting approval. If the sponsor is not approved, the written notice shall include the reasons for nonapproval.

10. Upon approval, the sponsor shall be assigned a sponsor identification number. The sponsor shall be notified of the identification number and reference such number on all correspondence with the committee or the board.

11. Approval of a sponsor for multiple continuing education programs may be for a period not to exceed 36 months.

12. Approval of a sponsor for multiple continuing education programs shall be subject to periodic review. At the committee's request, the sponsor shall submit records and materials from its continuing education programs to assure compliance with these requirements. Approval of the sponsor may be withdrawn upon a finding by the committee of noncompliance.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(A)(5) and R.S. 37:1311-1329.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 20:1292 (November 1994).

§3543. Proof of Compliance with Continuing Education Requirements

A. Form. Each applicant for renewal of licensure or certification shall certify his or her compliance with the continuing education requirements of this Chapter on a form recommended by the committee and approved by the board. Such form shall provide for submission of documentation supporting the applicant's statement of compliance.

B. Audits. Random audits of applications for license or certificate renewals shall be conducted by the committee or the board, at their discretion, to verify compliance with the continuing education requirements.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(A)(5) and R.S. 37:1311-1329.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 20:1293 (November 1994).

§3545. Appendix C Approved Foreign Transcript Evaluation Agencies

As Approved by the Louisiana State Board of Medical Examiners as of November 20, 1994

Center of Applied Research, Evaluation, and Education, Inc.
P.O. Box 20348
Long Beach, CA 90801
Telephone: (310) 430-1105

Education Evaluators International, Inc.
P.O. Box 5397
Los Alamitos, CA 90721
Telephone: (310) 431-2187; Facsimile: (310) 493-5021

Education International
29 Denton Road
Wellesley, MA 02181
Telephone: (617) 235-7425; Facsimile: (617) 235-6831

Educational Credential Evaluators, Inc.
P.O. Box 92970
Milwaukee, WI 53202-0970
Telephone: (414) 289-3400; Facsimile: (414) 289-3411

Foreign Academic Credentials Service, Inc.
P.O. Box 307
Glen Carbon, IL 62034
Telephone: (618) 288-5892

Foundation for International Services, Inc.
3123 Eastlake Avenue East
Seattle, WA 98102-3875
Telephone: (206) 328-0260; Facsimile: (206) 726-0528

International Consultants of Delaware, Inc.
109 Barksdale Professional Center
Newark, DE 19711
Telephone: (302) 737-8715; Facsimile: (302) 737-8756

International Education Research Foundation, Inc.
P.O. Box 66940
Los Angeles, CA 90066
Telephone: (310) 390-6276; Facsimile: (310) 397-7686

Josef Silny and Associates, Inc.
P.O. Box 248233
Coral Gables, FL 33124
Telephone: (305) 666-0233; Facsimile: (305) 666-4133

World Education Services, Inc.
P.O. Box 745
Old Chelsea Station; New York, NY 10013-0745
Telephone: (212) 966-6311; Facsimile: (212) 966-6395

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(A)(5) and R.S. 37:1311-1329.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 20:1293 (November 1994).

Chapter 37. Clinical Exercise Physiologists

Subchapter A. General Provisions

§3701. Scope of Chapter

A. The rules of this Chapter govern the licensing of clinical exercise physiologists to engage in the practice of clinical exercise physiology in the state of Louisiana.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3421-3433 and R.S. 37:1270(A)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 23:405 (April 1997).

§3703. Definitions

A. As used in this Chapter, the following terms shall have the meanings specified.

Applicant a person who has applied to the board for a license to engage in the practice of clinical exercise physiology in the state of Louisiana.

Application a written request directed to and received by the board upon forms supplied by the board, for a license to practice clinical exercise physiology in the state of Louisiana, together with all information, certificates, documents, and other materials required by the board to be submitted with such forms.

Board the Louisiana State Board of Medical Examiners.

Clinical Exercise Physiologist a person who, under the direction, approval, and supervision of a licensed physician, engages in the practice of exercise physiology.

Exercise Physiology the formulation, development, and implementation of exercise protocols and programs, administration of graded exercise tests, and providing education regarding such exercise programs and tests, in a cardiopulmonary rehabilitation program to individuals with deficiencies of the cardiovascular system, diabetes, lipid disorders, hypertension, cancer, chronic obstructive pulmonary disease, arthritis, renal disease, organ transplant, peripheral vascular disease, and obesity.

Exercise Protocols and *Programs* the intensity, duration, frequency, and mode of activity to improve the cardiovascular system.

Good Moral Character as applied to an applicant, means that an applicant has not, prior to or during the pendency of an application to the board, been guilty of any act, omission, condition, or circumstance which would provide legal cause under R.S. 37:3429 for the suspension or revocation of exercise physiology licensure; the applicant has not, prior to or in connection with his application, made any representation to the board, knowingly or unknowingly, which is in fact false or misleading as to material fact or omits to state any fact or matter that is material to the application; and the applicant has not made any representation or failed to make a representation or engaged in any act or omission which is false, deceptive, fraudulent, or misleading in achieving or obtaining any of the qualifications for a license required by this Chapter.

License the lawful authority to engage in the practice of clinical exercise physiology in the state of Louisiana, as evidenced by a certificate duly issued by and under the official seal of the board.

Licensed Physician a person who is licensed by the board to practice medicine in the state.

Louisiana Clinical Exercise Physiologists Licensing Act or the Act R.S. 37:3421-3433, as hereafter amended or supplemented.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3421-3433 and R.S. 37:1270(A)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 23:405 (April 1997).

Subchapter B. Qualifications for License

§3705. Scope of Chapter

A. The rules of this Subchapter govern the licensing of clinical exercise physiologists who, in order to practice clinical exercise physiology or hold themselves out as a clinical exercise physiologist, or as being able to practice clinical exercise physiology or to render clinical exercise physiology services in the state of Louisiana must meet all of the criteria set forth in this Subchapter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3421-3433 and R.S. 37:1270(A)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 23:406 (April 1997).

§3707. Qualification for License

A. To be eligible for a license, an applicant shall:

1. be at least 21 years of age;

2. be of good moral character as defined by §3703 of this Chapter;

3. be a citizen of the United States or possess a valid and current legal authority to reside and work in the United States, duly issued by the commissioner of Immigration and Naturalization of the United States under and pursuant to the Immigration and Nationality Act (66 Stat. 163) and the commissioner's regulations thereunder (8 CFR);

4. have successfully completed a Masters of Science degree or a Master of Education degree in an exercise studies curriculum at an accredited school, which school at the time of the applicant's graduation, was approved by the American College of Sports Medicine or the board;

5. be certified by as an exercise specialist by the American College of Sports Medicine (ACSM), having taken and successfully passed the ACSM certifying examination, as administered by ACSM or by the board pursuant to Subchapter D of these rules; and

6. have successfully completed an internship of 300 hours in exercise physiology under the supervision of a licensed exercise physiologist.

B. The burden of satisfying the board as to the qualifications and eligibility of the applicant for licensure shall be upon the applicant. An applicant shall not be deemed to possess such qualifications unless the applicant demonstrates and evidences such qualifications in the manner prescribed by, and to the satisfaction of, the board.

C. In addition to the substantive qualifications specified in §3707.A to be eligible for a license, an applicant shall satisfy the procedures and requirements for application provided in §§3711-3715 of Subchapter C of this Chapter and the procedures and requirements for examination provided by §§3717-3337 of Subchapter D of this Chapter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3421-3433 and R.S. 37:1270(A)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 23:406 (April 1997).

§3709. Exemptions from Licensure

A. The following persons and their activities are exempt from the licensing requirements of this Chapter:

1. any person employed or supervised by a licensed physician whose primary duty is to provide graded exercise testing within the confines of the physician's office. The supervisor shall not represent himself to the public as a licensed clinical exercise physiologist;

2. any student in an accredited educational institution, while carrying out activities that are part of the prescribed course of study, provided such activities are supervised by a licensed clinical exercise physiologist. Such student shall hold himself out to the public only by clearly indicating his student status and the profession in which he is being trained;

3. any person employed as a clinical exercise physiologist by any federal or state agency provided such person's activities constitute part of the duties for which they are employed or solely within the confines or under the jurisdiction of the organization by which they are employed; and

4. any natural person licensed as a health care provider under any other law while acting within the scope of such licensure.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3421-3433 and R.S. 37:1270(A)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 23:406 (April 1997).

Subchapter C. Application

§3711. Purpose and Scope

A. The rules of this Subchapter govern the procedures and requirements applicable to application to the board for licensing as a clinical exercise physiologist in the state of Louisiana.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3421-3433 and R.S. 37:1270(A)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 23:406 (April 1997).

§3713. Application Procedure

A. Application for licensing shall be made upon forms supplied by the board.

B. If application is made for licensing on the basis of examination to be administered by the board an initial application must be received by the board not less than 90 days prior to the scheduled date of the examination for which the applicant desires to sit. A completed application must be received by the board not less than 60 days prior to the scheduled date of such examination.

C. Application forms and instructions pertaining thereto may be obtained upon written request directed to the office of the board. Application forms will be mailed by the board within 30 days of the board's receipt of request, therefore, to ensure timely filing and completion of application, forms must be requested not later than 40 days prior to the deadlines for initial applications specified in §3713.B.

D. An application for licensing under this Chapter shall include:

1. proof, documented in a form satisfactory to the board as specified by the secretary, that the applicant possesses the qualifications set forth in the Chapter;

2. three recent photographs of the applicant; and

3. such other information and documentation as the board may require to evidence qualification for licensing.

E. All documents required to be presented to the board or its designee must be the original thereof. For good cause shown, the board may waive or modify this requirement.

F. The board may refuse to consider any application which is not complete in every detail, including submission of every document required by the application form. The board may, in its discretion require a more detailed or complete response to any request for information set forth in the application form as a condition to consideration of application.

G. Each application submitted to the board shall be accompanied by the applicable fee, as provided in Chapter 1 of these rules.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3421-3433 and R.S. 37:1270.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 23:406 (April 1997), amended LR 30:236 (February 2004).

§3715. Effect of Application

A. The submission of an application for licensing to the board shall constitute and operate as an authorization by the applicant to each educational institution at which the applicant has matriculated, each state or federal agency to which the applicant has applied for any license, permit,

certificate, or registration, each person, firm, corporation, clinic, office, or institution by whom or with whom the applicant has been employed in the practice of clinical exercise physiology or exercise physiology, each physician or other health care practitioner whom the applicant has consulted or seen for diagnosis or treatment and each professional organization to which the applicant has applied for membership, to disclose and release to the board any and all information and documentation concerning the applicant which the board deems material to consideration of the application. With respect to any such information or documentation, the submission of an application for licensing to the board shall equally constitute and operate as a consent by the applicant to disclosure and release of such information and documentation and as a waiver by the applicant of any privilege or right of confidentiality which the applicant would otherwise possess with respect thereto.

B. By submission of an application for licensing to the board, an applicant shall be deemed to have given his consent to submit to physical or mental examinations if, when, and in the manner so directed by the board and to waive all objections as to admissibility or disclosure of findings, reports, or recommendations pertaining thereto on the grounds of privilege provided by law. The expense of any such examination shall be borne by the applicant.

C. The submission of an application for licensing to the board shall constitute and operate as an authorization and consent by the applicant to the board to disclose and release any information or documentation set forth in or submitted with the applicant's application or obtained by the board from other persons, firms, corporations, associations, or governmental entities pursuant to §3715.A or B to any person, firm, corporation, association, or governmental entity having a lawful, legitimate, and reasonable need therefor.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3421-3433 and R.S. 37:1270(A)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 23:407 (April 1997).

Subchapter D. Examination

§3717. Purpose and Scope

A. For purposes of licensure, the board shall use the examination administered by and under contract with the American College of Sports Medicine.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3421-3433 and R.S. 37:1270(A)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 23:407 (April 1997).

§3719. Eligibility for Examination

A. To be eligible for examination an applicant for licensure must make application to the American College of Sports Medicine or its designated contract testing agency in accordance with procedures and requirements of the American College of Sports Medicine. Information on the examination process, including fee schedules and application deadlines, must be obtained by each applicant from the American College of Sports Medicine. Application for licensure under §3713 does not constitute application for examination.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3421-3433 and R.S. 37:1270(A)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 23:407 (April 1997).

§3721. Dates, Places of Examination

A. The American College of Sports Medicine certification examination for clinical exercise physiologists is given annually (examination dates are subject to change by the American College of Sports Medicine). In Louisiana, examination centers are located in New Orleans and Monroe.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3421-3433 and R.S. 37:1270(A)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 23:407 (April 1997).

§3723. Observance of Examination

A. The American College of Sports Medicine Examination may be observed by a representative appointed by the board. The representative is authorized and directed by the board to obtain positive photographic identification from all applicants for licensure appearing and properly registered for the examination and to observe that all applicants for licensure abide by the rules of conduct established by the American College of Sports Medicine.

B. An applicant for licensure who appears for examination shall:

1. present to the board's representative proof of registration for the examination and positive personal photographic and other identification in the form prescribed by the board; and

2. fully and promptly comply with any and all rules, procedures, instructions, directions, or requests made or prescribed by the American College of Sports Medicine or its contract testing agency.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3421-3433 and R.S. 37:1270(A)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 23:407 (April 1997).

§3725. Subversion of Examination Process

A. An applicant-examinee who engages or attempts to engage in conduct which subverts or undermines the integrity of the examination process shall be subject to the sanctions specified in §3729 of this Subchapter.

B. Conduct which subverts or undermines the integrity of the examination shall be deemed to include:

1. refusing or failing to fully and promptly comply with any rules, procedures, instructions, directions, or requests made by the American College of Sports Medicine or its contract testing agency, or the board's representative;

2. removing from the examination room or rooms any of the examination materials;

3. reproducing or reconstruction by copying, duplication, written notes, or electronic recording, any portion of the licensing examination;

4. selling, distributing, buying, receiving, obtaining, or having unauthorized possession of a future, current, or previously administered licensing examination;

5. communicating in any manner with any other examinee or any person during the administration of the examination;

6. copying answers from another examinee or permitting one's answers to be copied by another examinee during the administration of the examination;

7. having in one's possession during administration of the examination any materials or objects other than the examination materials distributed, including, without limitation, any books, notes, recording devices, or other written, printed, or recorded materials or data of any kind;

8. impersonating an examinee by appearing for and as an applicant and taking the examination for and in the name of the applicant other than himself;

9. permitting another person to appear for and take the examination on one's behalf and one's name; or

10. engaging in any conduct which disrupts the examination or the taking thereof by other examinees.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3421-3433 and R.S. 37:1270(A)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 23:408 (April 1997).

§3727. Finding of Subversion

A. When, during the administration of the examination the board's representative has reasonable cause to believe that an applicant-examinee is engaging or attempting to engage, or has engaged, or attempted to engage, in conduct which subverts or undermines the integrity of the examination process, the board's representative shall take such action as he deems necessary or appropriate to terminate such conduct and shall report such conduct in writing to the board and the American College of Sports Medicine.

B. In the event of suspected conduct as described in above §3725.B.5 or 6, the subject applicant-examinee shall be permitted to complete the examination, but shall be removed at the earliest practical opportunity to a location precluding such conduct.

C. When the board, upon information provided by the board's representative, the American College of Sports Medicine or its contract testing agency, an applicant-examinee or any person has probable cause to believe that an applicant has engaged or attempted to engage in conduct which subverts or undermines the integrity of the examination process, the board shall so advise the applicant in writing, setting forth the grounds for its findings of probable cause specifying the sanctions which are mandated or permitted by such conduct by §3729 of this Subchapter and provide the applicant with an opportunity for hearing pursuant to R.S. 49:955-58 and applicable rules of the board governing administrative hearings. Unless waived by the applicant, the board's findings of fact, conclusions of law under these rules and its decisions as to sanctions, if any, to be imposed shall be made in writing and served upon the applicant.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3421-3433 and R.S. 37:1270(A)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 23:408 (April 1997).

§3729. Sanctions for Subversion of Examination

A. An applicant who is found by the board, prior to the administration of the examination, to have engaged in conduct or to have attempted to engage in conduct which subverts or undermines the integrity of the examination process may be permanently disqualified from taking the examination and from licensure in the state of Louisiana.

B. An applicant-examinee who is found by the board to have engaged or to have attempted to engage in conduct which subverts or undermines the integrity of the examination process shall be deemed to have failed the examination. Such failure shall be recorded in the official records of the board.

C. In addition to the sanctions permitted or mandated by §3729.A and B, as to an applicant-examinee found by the board to have engaged or to have attempted to engage in conduct which subverts or undermines the integrity of the examining process, the board may:

1. revoke, suspend, or impose probationary conditions on any license issued to such applicant;

2. disqualify the applicant, permanently or for a specified period of time, from eligibility for licensure in the state of Louisiana; or

3. disqualify the applicant, permanently or for a specified number of subsequent administrations of the examination, from eligibility for examination for purposes of licensure.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3421-3433 and R.S. 37:1270(A)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 23:408 (April 1997).

§3731. Passing Score

A. The board shall use the criteria for satisfactory performance of the examination adopted by the American College of Sports Medicine.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3421-3433 and R.S. 37:1270(A)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 23:409 (April 1997).

§3733. Reporting of Examination Score

A. Applicants for licensure shall request the American College of Sports Medicine to notify the board of the applicant's scores upon each taking of the examination according to the procedures for such notification established by the American College of Sports Medicine.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3421-3433 and R.S. 37:1270(A)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 23:409 (April 1997).

§3735. Restriction, Limitation on Examinations

A. With respect to any written examination the successful passage of which is a condition to any license or permit issued under the Chapter, an applicant having failed to obtain a passing score upon taking any such examination four or more times shall not thereafter be considered eligible for licensing.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3421-3433 and R.S. 37:1270(A)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 23:409 (April 1997).

§3737. Lost, Stolen, or Destroyed Examination

A. The submission of an application for examination by the board shall constitute and operate as an acknowledgment and agreement by the applicant that the liability of the board, its members, committees, employees and agents, and the state of Louisiana to the applicant for the loss, theft, or destruction of all or any portion of an examination taken by the applicant, prior to the reporting of scores, thereon by the board shall be limited exclusively to the refund of the fees paid for examination by the applicant.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3421-3433 and R.S. 37:1270(A)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 23:409 (April 1997).

Subchapter E. Licensure Issuance, Expiration, Renewal and Termination

§3739. Issuance of License

A. If the qualifications, requirements, and procedures prescribed or incorporated by §§3705-3715 are met to the satisfaction of the board, the board shall issue to the applicant a license to engage in the practice of exercise physiology in the state of Louisiana.

B. A license issued by the board on the basis of examination by the board shall be issued by the board within 30 days following the reporting of the applicant's licensing examination scores to the board. A license issued under any other Section of this Chapter to an applicant not required to be examined by the board shall be issued by the board within 15 days following the meeting of the board next following the date on which the applicant's application, evidencing all requisite qualifications, is completed in every respect.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3421-3433 and R.S. 37:1270(A)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 23:409 (April 1997).

§3741. Expiration of License

A. Every license issued by the board under this Chapter, the expiration date of which is not stated thereon or provided by these rules, shall expire, and thereby become null, void, and to no effect, on the last day of the year in which such license was issued.

B. Notwithstanding the provisions of §3741.A, every license issued by the board under this Chapter to be effective on or after January 1, 1999, and each year thereafter, shall expire, and thereby become null, void and to no effect the following year on the first day of the month in which the licensee was born.

C. The timely submission of an application for renewal of license shall operate to continue the expiring license in full force and effect pending the board's issuance or denial of issuance, of the renewal license.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3421-3433 and R.S. 37:1270(A)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 23:409 (April 1997), amended LR 24:1498 (August 1998).

§3743. Renewal of License

A. Every license issued by the board under this Chapter shall be renewed annually on or before its date of expiration by submitting to the board an application for renewal, upon forms supplied by the board, together with a renewal fee as prescribed by Chapter 1 of these rules and documentation of satisfaction of the continuing professional education requirements prescribed by Subchapter G of these rules.

B. Notwithstanding the provisions of §3743.A, every license issued by the board under this Chapter to be effective on or after January 1, 1999, shall be renewed in the year 2000, and each year thereafter, on or before the first day of the month in which the licensee was born. Renewal fees shall be prorated if the license is to be effective for more than one year.

C. An application for renewal of license shall be mailed by the board to each person holding a license at least 30 days prior to the expiration of the license each year. Such form shall be mailed to the most recent address of each licensee as reflected in the official records of the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3421-3433, R.S. 37:1270 and R.S. 37:1281.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 23:409 (April 1997), amended 24:1498 (August 1998), LR 30:236 (February 2004).

§3745. Reinstatement of License

A. A license which is expired without renewal may be reinstated by the board subject to the conditions and procedures hereinafter provided.

B. An application for reinstatement shall be made upon forms supplied by the board and accompanied by two letters of recommendation, one from a reputable physician and one from a reputable clinical exercise physiologist of the former licensee's last professional location, together with applicable renewal fee, plus a penalty equal to the renewal fee.

C. With respect to an application for reinstatement made more than one year after the date on which the license expired, as a condition of reinstatement, the board may require that the applicant complete a statistical affidavit upon a form provided by the board, provide the board with a recent photograph, and evidence satisfaction of the requirements of Subchapter G with respect to continuing professional education.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3421-3433 and R.S. 37:1270(A)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 23:409 (April 1997).

Subchapter F. Advisory Committee on Clinical Exercise Physiology

§3747. Organization; Authority and Responsibilities

A. The advisory committee on clinical exercise physiology (the "committee"), as established, appointed, and organized pursuant to R.S. 37:3427 of the Act is hereby recognized by the board.

B. The committee shall:

1. have such authority as is accorded it by the Act;

2. function as prescribed by the Act;

3. advise the board on issues affecting the licensing of clinical exercise physiologists and on the regulation of clinical exercise physiology in the state of Louisiana; and

4. perform such other functions and provide such additional advice and recommendations as may be requested by the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3421-3433 and R.S. 37:1270(A)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 23:410 (April 1997).

§3749. Delegated Duties and Responsibilities

A. The advisory committee is authorized by the board to:

1. advise and assist the board in the ongoing evaluation of the clinical exercise physiology licensing examination required by the board;

2. provide advice and recommendations to the board respecting the modification, amendment, and supplementation of rules and regulations, standards, policies and procedures respecting clinical exercise physiology licensure and practice;

3. serve as a liaison between and among the board, licensed clinical exercise physiologists, and exercise physiology professional associations;

4. receive reimbursement for attendance at board meetings and for other expenses when specifically authorized by the board;

5. evaluate organizations and entities providing or offering to provide continuing professional education programs for clinical exercise physiologists and provide recommendations to the board with respect to the board's recognition and approval of such organizations and entities as sponsors of qualifying continuing professional education programs and activities pursuant to §3759 of these rules;

6. review documentation of continuing professional education by clinical exercise physiologists, verify the accuracy of such documentation, and evaluation of and make recommendations to the board with respect to whether programs and activities evidenced by applicants for renewal of licensure comply with and satisfy the standards for such programs and activities prescribed by these rules; and

7. request and obtain from applicants for renewal of licensure such additional information as the advisory committee may deem necessary or appropriate to enable it to make the evaluations and provide the recommendations for which the committee is responsible.

B. In discharging the functions authorized under this Section, the committee and the individual members thereof shall, when acting within the scope of such authority, be deemed agents of the board. Advisory committee members are prohibited from communicating, disclosing, or in any way releasing to anyone other than the board, any information or documents obtained when acting as the agents of the board without first obtaining written authorization of the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3421-3433 and R.S. 37:1270(A)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 23:410 (April 1997).

Subchapter G. Continuing Professional Education

§3751. Scope of Subchapter

A. The rules of this Subchapter provide standards for the continuing professional education requisite to the annual renewal of licensure as a clinical exercise physiologist, and prescribe the procedures applicable to satisfaction and documentation of continuing professional education in connection with application for renewal of licensure.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3421-3433 and R.S. 37:1270(A)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 23:410 (April 1997).

§3753. Requirements

A. To be eligible for renewal of licensure for 1998 and thereafter, a clinical exercise physiologist shall, within each year during which he holds licensure, evidence and document, upon forms supplied by the board, successful completion of not less than 10 contact hours, 1.0 Continuing Education Units (CEUs).

B. One Continuing Education Unit (CEU) constitutes and is equivalent to 10 hours of participation in an organized continuing professional education program approved by the board and meeting the standards prescribed in this Subchapter. One continuing professional education hour is equal to 0.1 of a CEU. Ten hours, or 1.0 CEUs, are required to meet the standards prescribed by this Subchapter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3421-3433 and R.S. 37:1270(A)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 23:410 (April 1997).

§3755. Qualifying Continuing Professional Education Programs

A. To be acceptable as qualified continuing professional education under these rules a program shall:

1. have significant and substantial intellectual or practical content dealing principally with matters germane and relevant to the practice of clinical exercise physiology;

2. have pre-established written goals and objectives, with its primary objective being to maintain the participant's competence in the practice of clinical exercise physiology;

3. be presented by persons whose knowledge and/or professional experience is appropriate and sufficient to the subject matter of the presentation;

4. provide a system or method for verification of attendance or course completion; and

5. be a minimum of one continuous hour in length.

B. None of the following programs, seminars, or activities shall be deemed to qualify as acceptable continuing professional education programs under these rules:

1. any program not meeting the standards prescribed above;

2. independent study not approved or sponsored by the Louisiana Association of Exercise Physiologists;

3. any program, presentation, seminar, or course of instruction not providing the participant an opportunity to ask questions or seek clarification of specific matters presented;

4. teaching, training, or supervisory activities;

5. holding office in professional or governmental organizations, agencies, or committees;

6. participation in case conferences, informal presentations, or in-service activities;

7. giving or authorizing verbal or written presentations, seminars, articles, or grant applications.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3421-3433 and R.S. 37:1270(A)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 23:410 (April 1997).

§3757. Approval of Program Sponsors

A. Any program, course, seminar, workshop, or other activity meeting the standards prescribed by §3755 sponsored, offered, or approved by the American College of Sports Medicine or by the Louisiana Association of Exercise Physiologists shall be presumptively approved by the board for purposes of qualifying as an approved continuing education program under these rules.

B. Upon the recommendation of the advisory committee, the board may designate additional organizations and entities whose programs, courses, seminars, workshops, or other activities shall be deemed approved by the board for purposes of qualifying as an approved continuing professional education program under this proposal.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3421-3433 and R.S. 37:1270(A)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 23:411 (April 1997).

§3759. Approval of Programs

A. A continuing professional education program sponsored by an organization or entity not deemed approved by the board pursuant to the information above may be pre-approved by the board as a program qualifying and acceptable for satisfying continuing professional education requirements under this Subchapter upon written request to the board therefor, upon a form supplied by the board, providing a complete description of the nature, location, date, content, and purpose of such program and such other information as the board or the advisory committee may request to establish the compliance of such program with the standards prescribed by §3755. Any such request for pre-approval respecting a program which makes and collects a charge for attendance shall be accompanied by a nonrefundable processing fee of $30.

B. Any such written request shall be referred by the board to the advisory committee for its recommendation. If the advisory committee's recommendation is against approval, the board shall give notice of such recommendation to the person or organization requesting approval and such person or organization may appeal the advisory committee's recommendation to the board by written request delivered to the board within 10 days of such notice. The board's decision with respect to approval of any such activity shall be final. Persons and organizations requesting pre-approval of continuing professional education programs should allow not less than 60 days for such requests to be processed

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3421-3433 and R.S. 37:1270(A)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 23:411 (April 1997).

§3761. Documentation Procedure

A. A form for annual documentation and certification of satisfaction of the continuing professional education requirements prescribed by these rules shall be mailed by the board to each clinical exercise physiologist subject to such requirements with the application for renewal of licensure form mailed by the board. Such form shall be completed and delivered to the board with the licensee's renewal application.

B. Any certification of continuing professional education not presumptively approved by the board pursuant to these rules, or pre-approved by the board in writing, shall be referred to the advisory committee for its evaluation and recommendations. If the advisory committee determines that a program or activity certified by an applicant for renewal in satisfaction of continuing professional education requirements does not qualify for recognition by the board or does not qualify for the number of CEUs claimed by the applicant, the board shall give notice of such determination to the applicant for renewal and the applicant may appeal the advisory committee's recommendation to the board by written request delivered to the board within 10 days of such notice. The board's decision with respect to approval and recognition of any such program or activity shall be final.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3421-3433 and R.S. 37:1270(A)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 23:411 (April 1997).

§3763. Failure to Satisfy Continuing Professional Education Requirements

A. An applicant for renewal of licensure who fails to evidence satisfaction of the continuing professional education requirements prescribed by these rules shall be given written notice of such failure by the board. The license of the applicant shall remain in full force and effect for a period of 60 days following the mailing of such notice, following which it shall be deemed expired, unrenewed, and subject to revocation without further notice, unless the applicant shall have, within such 60 days furnished the board satisfactory evidence, by affidavit, that:

1. the applicant has satisfied the applicable continuing professional education requirements;

2. the applicant is exempt from such requirements pursuant to these rules; or

3. the applicant's failure to satisfy the continuing professional education requirements was occasioned by disability, illness, or other good cause as may be determined by the board.

B. The license of a clinical exercise physiologist which has expired by nonrenewal or has been revoked for failure to satisfy continuing professional education requirements of these rules may be reinstated by the board upon written application to the board, accompanied by payment of the reinstatement fee prescribed by §3745.B hereof, together with documentation and certification that the applicant has, for each year since the date on which the applicant's license lapsed, expired or was revoked, completed an aggregate of 10 contact hours (1.0 CEU) of qualifying continuing professional education.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3421-3433 and R.S. 37:1270(A)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 23:411 (April 1997), amended LR 24:1498 (August 1998).

§3765. Waiver of Requirements

A. The board may, in its discretion and upon the recommendation of the advisory committee, waive all or part of continuing professional education required by these rules in favor of a clinical exercise physiologist who makes written request for such waiver to the board and evidences to the satisfaction of the board a permanent physical disability, illness, financial hardship, or other similar extenuating circumstances precluding the individual's satisfaction of the continuing professional education requirements.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3421-3433 and R.S. 37:1270(A)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 23:412 (April 1997).

§3767. Exception to Continuing Professional Education Requirements

A. The continuing professional education requirements prescribed by this Subchapter as requisite to renewal of licensure shall not be applicable to a clinical exercise physiologist who has held an initial license on the basis of examination for a period of less than one year.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3421-3433 and R.S. 37:1270(A)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 23:412 (April 1997).

Title 46
PROFESSIONAL AND OCCUPATIONAL STANDARDS
Part XLV. Medical Professions
Subpart 3. Practice

Chapter 42. Illegal Payments; Required Disclosures of Financial Interests

§4201. Scope and Purpose of Chapter

A. Scope of Chapter. The rules of this Chapter interpret, implement, and provide for the enforcement of R.S. 37:1744 and R.S. 37:1745, requiring disclosure of a physician's financial interest in another health care provider to whom or to which the physician refers a patient and prohibiting certain payments in return for referring or soliciting patients.

B. Declaration of Purpose; Interpretation and Application. Physicians owe a fiduciary duty to patients to exercise their professional judgment in the best interests of their patients in providing, furnishing, prescribing, recommending, or referring patients for health care items and services, without regard to personal financial recompense. The purpose of these rules and the laws they implement is to prevent payments by or to a physician as a financial incentive for the referral of patients to a physician or other health care provider for diagnostic or therapeutic services or items. These rules shall be interpreted, construed, and applied so as to give effect to such purposes and intent.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1744, R.S. 37:1745, and R.S. 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 20:1111 (October 1994).

§4203. Definitions and Construction

A. Definitions. As used in this Chapter:

Board the Louisiana State Board of Medical Examiners.

Financial Interest a significant ownership or investment interest established through debt, equity, or other means and held, directly or indirectly, by a physician or a member of a physician's immediate family, or any form of direct or indirect remuneration for referral.

Group Practice a group of two or more physicians legally organized as a general partnership, registered limited liability partnership, professional medical corporation, limited liability company, foundation, nonprofit corporation, faculty practice plan, or similar organization or association:

a. in which each physician who is a member of the group provides substantially the full range of services which the physician routinely provides, including medical or podiatric care, consultation, diagnosis, or treatment, through the joint use of shared office space, facilities, equipment, and personnel;

b. for which substantially all of the services of the physicians who are members of the group are provided through the group and are billed under a billing number assigned to the group and amounts so received are treated as receipts of the group;

c. in which the overhead expenses of and the income from the practice are distributed in accordance with methods previously determined;

d. in which no physician who is a member of the group directly or indirectly receives compensation based on the volume or value of referrals by the physician, except payment of a share of the overall profits of the group, which may include a productivity bonus based on services personally performed or services incident to such personally performed services, so long as the share of profits or bonus is not determined in any manner which is directly related to the volume or value of referrals by such physician;

e. in which members of the group personally conduct no less than 75 percent of the physician-patient encounters of the group practice; and

f. in the case of a faculty practice plan associated with a hospital, institution of higher education, or medical school with an approved medical residency training program in which physician members may provide a variety of different specialty services and provide professional services both within and outside the group, as well as perform other tasks such as research, solely with respect to services provided within such faculty practice plan.

Health Care Item any substance, product, device, equipment, supplies, or other tangible good or article which is or may be used or useful in the provision of health care.

Health Care Provider any person licensed by a department, board, commission, or other agency of the state of Louisiana to provide, or which does in fact provide, preventive, diagnostic, or therapeutic health care services or items.

Immediate Family as respects a physician, the physician's spouse, children, parents, and siblings.

Investment Interest a security issued by an entity, including, without limitation, shares in a corporation, interests in or units of a partnership, bonds, debentures, notes, or other debt instruments.

Payment the tender, transfer, distribution, exchange, or provision of money, goods, services, or anything of economic value.

Person includes a natural person or a partnership, corporation, organization, association, facility, institution, or any governmental subdivision, department, board, commission, or other entity.

Physician includes a doctor of medicine or a doctor of podiatric medicine.

Referral any direction, recommendation, or suggestion given by a health care provider to a patient, directly or indirectly, which is likely to determine, control, or influence the patient's choice of another health care provider for the provision of health care services or items.

Remuneration for Referral any arrangement or scheme, involving any remuneration, directly or indirectly, in cash or in kind, between a physician, or an immediate family member of such physician, and another health care provider which is intended to induce referrals by the physician to the health care provider or by the health care provider to the physician, other than any amount paid by an employer to an employee who has a bona fide employment relationship with the employer, for employment in the furnishing of any health care item or service.

B. Construction. Masculine terms wheresoever used in this Chapter shall be deemed to include the feminine.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1744, R.S. 37:1745, and R.S. 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 20:1111 (October 1994).

Subchapter A. Illegal Payments

§4205. Prohibition of Payments for Referrals

A. A physician shall not knowingly and willfully make or offer to make any payment, directly or indirectly, overtly or covertly, in cash or in kind, to induce another person to refer an individual to the physician for the furnishing or arranging for the furnishing of any health care item or service.

B. A physician shall not knowingly and willfully solicit, receive, or accept any payment, directly or indirectly, overtly or covertly, in cash or in kind, in return for referring a patient to a health care provider for the furnishing or arranging for the furnishing of any health care item or service.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1745 and R.S. 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 20:1112 (October 1994).

§4207. Exceptions

A. Proportionate Return on Investment. Payments or distributions by an entity representing a direct return on investment based upon a percentage of ownership shall not be deemed a payment prohibited by R.S. 37:1745(B) or by §4205 of these rules, provided that:

1. the amount of payment to an investor in return for the investment interest is directly proportional to the amount or value of the capital investment (including the fair market value of any pre-operational services rendered) of that investor;

2. the terms on which an investment interest was or is offered to an investor who is in a position to make or influence referrals to, furnish items or services to, or otherwise generate business for the entity must be no different from the terms offered to other investors;

3. the terms on which an investment interest was or is offered to an investor who is in a position to make or influence referrals to, furnish items or services to, or otherwise generate business for the entity must not be related to the previous or expected volume of referrals, items or services furnished, or the amount of business otherwise generated from that investor to the entity;

4. there is no requirement that an investor make referrals to, be in a position to make or influence referrals to, furnish items or services to, or otherwise generate business for the entity as a condition for becoming or remaining an investor;

5. the entity or any investor does not market or furnish the entity's items or services to investors differently than to non-investors; and

6. the entity does not loan funds to or guarantee a loan for an investor who is in a position to make or influence referrals to, furnish items or services to, or otherwise generate business for the entity if the investor uses any part of such loan to obtain the investment interest.

B. General Exceptions. Any payment, remuneration, practice, or arrangement which is not prohibited by or unlawful under §1128B(b) of the Federal Social Security Act (Act), 42 U.S.C. §1320a-7b(b), as amended, with respect to health care items or services for which payment may be made under Title XVIII or Title XIX of the Act, including those payments and practices sanctioned by the secretary of the United States Department of Health and Human Services, through the Office of Inspector General, pursuant to §1128B(b)(3)(E) of the Act, through regulations promulgated at 42 CFR §1001.952, as the same may hereafter be amended, shall not be deemed a payment prohibited by R.S. 37:1745.B or by §4205 of these rules with respect to health care items or services for which payment may be made by any patient or private or governmental payer.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1745 and R.S. 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 20:1112 (October 1994).

§4209. Effect of Violation

A. Any violation of or failure of compliance with the prohibitions and provision of §4205 of this Chapter shall be deemed a violation of the Medical Practice Act, R.S. 37:1285 or of the Podiatry Practice Act, R.S. 37:624, as

applicable, providing cause for the board to suspend or revoke, refuse to issue, or impose probationary or other restrictions on any license or permit held or applied for by a physician culpable of such violation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1745 and R.S. 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 20:1113 (October 1994).

Subchapter B. Disclosure of Financial Interests in Third-Party Health Care Providers

§4211. Required Disclosure of Financial Interest

A. Mandatory Disclosure. A physician shall not make any referral of a patient outside the physician's group practice for the provision of health care items or services by another health care provider in which the referring physician has a financial interest (as defined by §4203.A.3 and §4211.B), unless, in advance of any such referral, the referring physician discloses to the patient, in accordance with §4215 of this Chapter, the existence and nature of such financial interest.

B. Special Definition: Significant Financial Interest. As to a physician, an ownership or investment interest shall be considered "significant," within the meaning of §4211.A, if such interest satisfies any of the following tests.

1. Such interest, in dollar amount or value, represents five percent or more of the gross assets of the health care provider in which such interest is held.

2. Such interest represents five percent or more of the voting securities of the health care provider in which such interest is held.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1744 and R.S. 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 20:1113 (October 1994).

§4213. Prohibited Arrangements

A. Any arrangement or scheme, including cross-referral arrangements, which a physician knows or should know has a principal purpose of ensuring or inducing referrals by the physician to another health care provider, which, if made directly by the physician would be a violation of §4211, shall constitute a violation of §4211.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1744 and R.S. 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 20:1113 (October 1994).

§4215. Form of Disclosure

A. Required Contents. The disclosure required by §4211 of this Chapter shall be made in writing, shall be furnished to the patient, or the patient's authorized representative, prior to or at the time of making the referral, and shall include:

1. the physician's name, address, and telephone number;

2. the name and address of the health care provider to whom the patient is being referred by the physician;

3. the nature of the items or services which the patient is to receive from the health care provider to which the patient is being referred; and

4. the existence and nature of the physician's financial interest in the health care provider to which the patient is being referred.

B. Permissible Contents. The form of disclosure required by §4211 of this Chapter may include a signed acknowledgment by the patient or the patient's authorized representative that the required disclosure has been given.

C. Approved Form. Notice to a patient given substantially in the form of Disclosure of Financial Interest prescribed in the Appendix to these rules (§4219) shall be presumptively deemed to satisfy the disclosure requirements of this Subchapter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1744 and R.S. 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 20:1113 (October 1994).

§4217. Effect of Violation; Sanctions

A. Effect of Violation. Any violation of or failure of compliance with the prohibitions and provision of §4211 of this Chapter shall be deemed a violation of the Medical Practice Act, R.S. 37:1285 or of the Podiatry Practice Act, R.S. 37:624, as applicable, providing cause for the board to suspend or revoke, refuse to issue, or impose probationary or other restrictions on any license or permit held or applied for by a physician culpable of such violation.

B. Administrative Sanctions. In addition to the sanctions provided for by §4217, upon proof of violation of §4211 by a physician, the board may order that all or any portion of any amounts paid by a patient, and/or by any third-party payer on behalf of a patient, for health care items or services furnished upon a referral by the physician in violation of §4211, be refunded by the physician to such patient and/or third-party payer, together with legal interest on such payments at the rate prescribed by law calculated from the date on which any such payment was made by the patient and/or third-party payers.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1744 and R.S. 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 20:1113 (October 1994).

§4219. Appendix C Disclosure of Financial Interest Form

[Name of Physician/Group]
[Address]
[Telephone Number]

_____

DISCLOSURE OF
FINANCIAL INTEREST
As Required by R.S. 37:1744 and
LAC 46:XLV.4211-4215

_____

TO:_____

DATE: _____

(Name of Patient to Be Referred)

_____

(Patient Address)

_____

Louisiana law requires physicians and other health care providers to make certain disclosures to a patient when they refer a patient to another health care provider or facility in which the physician has a significant financial interest. [I am/we are] referring you, or the named patient for whom you are legal representative, to:

_____

(Name and Address of Provider to Whom Patient is Referred)

to obtain the following health care services, products, or items:

_____

(Purpose of the Referral)

[I/we] have a financial interest in the health care provider to whom we are referring you, the nature and extent of which are as follows:

_____

_____

_____

PATIENT ACKNOWLEDGEMENT

I, the above-named patient, or legal representative of such patient, hereby acknowledge receipt, on the date indicated and prior to the described referral, of a copy of the foregoing Disclosure of Financial Interest.

_____

(Signature of Patient or Patient's Representative)

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1744 and R.S. 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 20:1114 (October 1994).

Chapter 45. Physician Assistants

§4501. Supervision by Supervising Group of Physicians

A. A physician assistant may be supervised by a supervising group of physicians provided that, a member, partner or employee of the supervising group is designated as the supervising physician, and such supervising physician meets and satisfies all of the qualifications, procedures and other requirements of this Chapter to the same extent as if the physician assistant were supervised individually by the supervising physician.

B. With respect to any physician assistant supervised by a supervising group of physicians, all duties, obligations, and responsibilities imposed by statute or by the rules of this Chapter on the supervising physician shall be equally and independently assumed and borne by the designated supervising physician and the supervising group.

C. When a physician assistant is supervised by a supervising group of physicians, the supervising physician may designate any other member, partner or employee of the supervising group as locum tenens physician, provided that such designee meets the qualifications of LAC 46:XLV.1508 and 1510 and the designation otherwise complies with said Sections. Any physician serving as a locum tenens physician must be identified in the physician assistant's notice of intent to practice as provided in §1517.

D. A physician may obtain approval from the board to be the primary supervising physician for up to two physician assistants; however, nothing shall prohibit a qualified supervising physician from acting as supervising physician on a locum tenens basis for as many as two additional physician assistants in addition to the two physician assistants for whom he is the primary supervising physician.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(B)(6), R.S. 37:1360.23(D) and (F).

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 4:111 (April 1978), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 17:1105 (November 1991), LR 22:204 (March 1996), LR 25:31 (January 1999).

§4503. Compensation

A. A physician assistant may receive compensation, salary or wages only from his or her employer and may neither render a statement for service directly to any patient nor receive any payment, compensation or fee for services directly from any patient.

B. Nothing in this Section shall prohibit charges from being submitted to any governmental or private payer for services rendered by a physician assistant.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(B)(6), R.S. 37:1360.23(D) and (F).

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 4:111 (April 1978), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 17:1105 (November 1991), LR 22:204 (March 1996), LR 25:31 (January 1999).

§4505. Services Performed by Physician Assistants

A. The practice of a physician assistant shall include the performance of medical services that are delegated by the supervising physician and are within the scope of the physician assistant's education, training, and licensure.

B. In accordance with a written clinical practice guidelines or protocols medical services rendered by a physician assistant may include: screening patients to determine need for medical attention; eliciting patient histories; reviewing patient records to determine health status; performing physical examinations; recording pertinent patient data; performing developmental screening examinations on children; making preliminary decisions regarding data gathering and appropriate management and treatment of patients being seen for initial evaluation of a problem or follow-up evaluation of a previously diagnosed and stabilized condition; making appropriate referrals; preparing patient summaries; requesting initial laboratory studies; collecting specimens for blood, urine and stool

analyses; performing urine analyses, blood counts and other laboratory procedures; identifying normal and abnormal findings on history, physical examinations and laboratory studies; initiating appropriate evaluation and emergency management for emergency situations such as cardiac arrest, respiratory distress, burns and hemorrhage; performing clinical procedures such as venipuncture, intradermal testing, electrocardiography, care and suturing of wounds and lacerations, casting and splinting, control of external hemorrhage, application of dressings and bandages, administration of medications, intravenous fluids, and transfusion of blood or blood components, removal of superficial foreign bodies, cardiopulmonary resuscitation, audiometry screening, visual screening, aseptic and isolation techniques; providing counseling and instruction regarding common patient problems; monitoring the effectiveness of therapeutic intervention; assisting in surgery; and signing for receipt of medical supplies or devices that are delivered to the supervising physician or supervising physician group. This list is illustrative only, and does not constitute the limits or parameters of the physician assistant's practice.

C. A physician assistant who performs the suturing of lacerations, may undertake to do so with respect to a particular patient, only when specifically delegated to do so by the supervising physician.

D. A physician assistant may administer medication to a patient, or transmit orally, electronically, or in writing on a patient's record, a prescription from his or her supervising physician to a person who may lawfully furnish such medication or medical device. The supervising physician's prescription, transmitted by the physician assistant, for any patient cared for by the physician assistant, shall be based on a patient-specific order by the supervising physician. At the direction and under the supervision of the supervising physician, a physician assistant may hand deliver to a patient of the supervising physician a properly labeled prescription drug prepackaged by a physician, a manufacturer or a pharmacist. In any case, the medical record of any patient cared for by the physician assistant for whom the physician's prescription has been transmitted or carried out shall be reviewed, countersigned and dated by a supervising physician within 72 hours, or as otherwise required by law.

E. A physician assistant shall not:

1. practice without supervision, as defined by §1503, except in life-threatening emergencies;

2. issue prescriptions for any medication and/or complete and issue prescription blanks previously signed by any physician;

3. order for administration or administer any medication to any patient except pursuant to the specific order or direction of his or her supervising physician;

4. act as or engage in the functions of a physician assistant other than on the direction and under the direction and supervision of his supervising physician at the location or locations specified in physician assistant's notice of practice location to the board, except in the following situations:

a. if the physician assistant is acting as assistant in life-threatening emergencies and in situations such as man-made and natural disaster or a physician emergency relief efforts;

b. if the physician assistant is volunteering his services to a non-profit charitable organization, receives no compensation for such services, and is performing such services under the supervision and in the presence of a licensed physician;

5. act as or engage in the functions of a physician assistant when the supervising physician and the physician assistant do not have the capability to be in contact with each other by telephone or other telecommunication device; or

6. identify himself, hold himself out to the public, or permit any other person to identify him, as "doctor," "medical doctor," "doctor of medicine" or "physician" or render any service to a patient unless the physician assistant has clearly identified himself as a physician assistant by any method reasonably calculated to advise the patient that the physician assistant is not a physician licensed to practice medicine.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(B)(6), R.S. 37:1360.23(D) and (F).

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 4:111 (April 1978), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 17:1105 (November 1991), LR 22:204 (March 1996), LR 25:32 (January 1999).

§4507. Authority and Limitations of Supervising Physician

A. The supervising physician is responsible for the responsible supervision, control, and direction of the physician assistant and retains responsibility to the patient for the competence and performance of the physician assistant.

B. A supervising physician may not supervise more than two physician assistants at the same time; provided, however, that a physician may be approved to act as a supervising physician on a locum tenens basis for physician assistants in addition to the physician assistants for whom he or she is the primary supervising physician, provided that such physician shall not act as supervising physician for more than four physician assistants at any one time.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(B)(6), R.S. 37:1360.23(D) and (F).

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 4:112 (April 1978), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 17:1106 (November 1991), LR 22:205 (March 1996), LR 25:32 (January 1999).

§4509. Designation of Locum Tenens

A. Notwithstanding other provisions of this Chapter, the board may permit a supervising Physician to designate as locum tenens a physician who will assume the obligations and responsibilities of the supervising physician for up to six months when the supervising physician is absent or unavailable as a result of illness, medical emergency or other similar disabling causes as the board may define.

B. To be eligible for designation as locum tenens, a physician shall:

1. meet the qualifications of LAC 46:XLV.1508;

2. actively practice in the same specialty as the supervising physician or in a reasonably related field of medicine; and

3. be registered as a supervising physician as provided in LAC 46:XLV.1510 and 1514.

C. Designation of a locum tenens must include:

1. a description of the locum tenens' professional background and specialty, if any;

2. the address of all office locations used by the locum tenens;

3. a detailed description of the specific circumstances under which the locum tenens will act for and in place of the supervising physician and the manner in which the locum tenens will supervise, direct and control the physician assistant; and

4. a certificate, signed by the designated locum tenens, acknowledging that he has read and understands the rules of this Chapter and that he will assume the duties, obligations and responsibilities of the supervising physician under the circumstances specified in the application.

D. The board may, in its discretion, refuse to approve the use of a locum tenens, or it may restrict or otherwise modify the specified circumstances under which the locum tenens would be authorized to act for and in place of the supervising physician.

E. A physician assistant shall not, while acting under the direction and supervision of an approved locum tenens designated by the supervising physician, attend or otherwise provide any services for or with respect to any patient other than a patient of the supervising physician or supervising group.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(B)(6), R.S. 37:1360.23(D) and (F).

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 4:112 (April 1978), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 17:1106 (November 1991), LR 22:205 (March 1996), LR 25:33 (January 1999).

§4511. Mutual Obligations and Responsibilities

A. The physician assistant and supervising physician shall:

1. within 15 days notify the board, in writing, of:

a. the termination of the physician assistant's supervision relationship with a supervising physician or supervising group of physicians;

b. the retirement or withdrawal from active practice by the supervising physician; and

c. any other change in the employment, functions, activities or services of the physician assistant or the manner or location of their performance;

2. comply with reasonable requests by the board for personal appearances and/or information relative to the functions, activities and performance of the physician assistant and supervising physician;

3. insure that each individual to whom the physician assistant provides patient services is expressly advised and understands that the physician assistant is not a licensed physician;

4. insure that, with respect to each direct patient encounter, all activities, functions, services and treatment measures of the physician assistant are properly documented in written form by the physician assistant and that each such entry is countersigned by the supervising physician within 24 hours with respect to inpatients in an acute care setting and patients in a hospital emergency department; within 48 hours with respect to patients of nursing homes and other sub-acute settings and within 72 hours in all other cases.

B. The physician assistant and supervising physician shall bear equal and mutual responsibility for producing the following documentation upon an official inspection conducted by a duly authorized representative of the board:

1. a copy of the physician assistant's notice of intent to practice, listing all physicians authorized and designated to supervise the physician assistant; and

2. any written practice agreement defining the scope of practice of the physician assistant including:

a. any clinical practice guidelines prescribed by the supervising physician;

b. the medical procedures which the supervising physician has authorized the physician assistant to perform;

c. any group practice arrangements; and

d. a list of the locations where the physician assistant may be working at any given time;

3. any written practice agreement shall be annually reviewed, updated as appropriate, and signed by the physician assistant and supervising physician.

C. The physician assistant and the supervising physician shall bear equal and reciprocal obligations to insure strict compliance with the obligations, responsibilities and provisions set forth in the rules of this Chapter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(B)(6), R.S. 37:1360.23(D) and (F).

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 4:112 (April 1978), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 17:1106 (November 1991), LR 22:206 (March 1996), LR 25:33 (January 1999).

§4513. Causes for Nonissuance, Suspension, Revocation or Restrictions; Fines, Reinstatement

A. The board may refuse to issue, or may suspend, revoke or impose probationary or other restrictions on, any license issued under this Chapter, or issue a private or public reprimand, for the following causes:

1. conviction of or entry of a plea of guilty or nolo contendere to a criminal charge constituting a felony under the laws of the United States or of any state;

2. conviction of or entry of a plea of guilty or nolo contendere to any criminal charge arising out of or in connection with practice as a physician assistant;

3. fraud, deceit, or perjury in obtaining any license or permit issued under this Chapter;

4. providing false testimony before the board;

5. habitual or recurring drunkenness;

6. habitual or recurring use of morphine, opium, cocaine, drugs having a similar effect, or other substances which may induce physiological or psychological dependence;

7. aiding, abetting, or assisting any physician in any act or course of conduct enumerated in Louisiana Revised Statutes, Title 37, Section 1285;

8. efforts to deceive or defraud the public;

9. incompetency;

10. immoral conduct in exercising the privileges provided for by licensure under this Chapter;

11. persistent violation of federal or state laws relative to control of social diseases;

12. interdiction or commitment by due process of law;

13. inability to perform or function as a physician assistant with reasonable skill or safety to patients because of medical illness or deficiency; physical illness, including but not limited to deterioration through the aging process or loss of motor skills; and/or excessive use or abuse of drugs, including alcohol;

14. refusing to submit to the examination and inquiry of an examining committee of physicians appointed or designated by the board to inquire into the physician assistant's physical and mental fitness and ability to provide patient services with reasonable skill and safety;

15. the refusal of the licensing authority of another state to issue or renew a license, permit or certificate to act as a physician assistant in that state, or the revocation, suspension or other restriction imposed on a license, permit or certificate issued by such licensing authority which prevents or restricts the functions, activities or services of the physician assistant in that state; or

16. violation of any provision of this Chapter, or of rules or regulations of the board or statute pertaining to physician assistants.

B. The board may, as a probationary condition, or as a condition of the reinstatement of any license suspended or revoked hereunder, require the physician assistant and/or the supervising physician group to pay all costs of the board proceedings, including investigators', stenographers', and attorneys' fees, and to pay a fine not to exceed the sum of $5,000.

C. Any license suspended, revoked or otherwise restricted by the board may be reinstated by the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(B)(6), R.S. 37:1360.23(D) and (F).

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 4:112 (April 1978), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 17:1107 (November 1991), LR 22:206 (March 1996), LR 25:33 (January 1999).

Chapter 49. Occupational Therapists and Occupational Therapy Assistants

Subchapter A. General Provisions

§4901. Scope of Chapter

A. The rules of this Chapter govern the practice of occupational therapy in the state of Louisiana.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3001-3014 and R.S. 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 12:767 (November 1986).

§4903. Definitions

A. As used in this Chapter, the following terms shall have the meanings specified.

Abnormal Patterns of Motion certain primitive patterns of motion which typically appear to varying degrees in the C.N.S. damaged individual when isolated movement is attempted. These patterns may be seen in the extremities in stereotyped flexion and extension patterns as distinguished from normal, coordinated, voluntary motion which is also synergistic in nature.

Activities of Daily Living the components of everyday activity including self-care, work, and play/leisure activities.

Activity Restriction the exclusion of certain activities, or restrictions in method of duration of performance.

Assistive/Adaptive Equipment a special device which assists in the performance of self-care, work, or play/leisure activities or physical exercise.

Board the Louisiana State Board of Medical Examiners.

Client a person, group, program, organization or community for whom the occupational therapy practitioner is providing service (American Occupational Therapy Association, adopted 1995).

Client Care Conference a meeting between the supervising occupational therapist and an occupational therapy assistant to discuss client progress or lack thereof, client issues, revision of goals, initiation, modification or termination of an individual program plan, assessment of utilization of additional resources, discharge and any other information which may affect a client's plan of care. Except when specifically required in this Chapter to be conducted by face to face conference, such meeting may be undertaken by telephone or other means of telecommunication which allows for simultaneous interactive discussion between the supervising occupational therapist and occupational therapy assistant.

Close Client Care Supervision face to face observation of an occupational therapy assistant administering occupational therapy to a client, accompanied or followed in a timely fashion by verbal discussion of client goals, the individual program plan and other matters which may affect the client's plan of care.

Cognitive Skills the level, quality, and/or degree of comprehension, communication, concentration, problem solving, time management, conceptualization, integration of learning, judgment, time-place-person orientation.

Community Services, Programs, or *Resources* vocational, social, religious, recreational, health, education, and transportation services or programs that may be available in the community.

Coordination the ability to perform motions in a smooth concerted way.

Coping Skills the ability to sublimate drives, find sources of need gratification, tolerate frustration and anxiety, experience gratification, and control impulses.

Dexterity skill and ease in performing physical activities.

Documents the written recording of information in the client's overall record/chart and/or in the occupational therapy record/chart.

Dyadic Interaction Skills the ability in relationships to peers, subordinates, and authority figures to demonstrate trust, respect, and warmth; to perceive and respond to needs and feelings of others; to engage in and sustain interdependent relationships; and to communicate feelings.

Evaluate/Evaluation the process of collecting and interpreting data through direct observation, interview, record review, or testing of a client.

Environmental Adaptations structural or positional changes designed to facilitate independent living and/or increase safety in the home, work, or treatment setting: i.e., the installation of ramps, bars; change in furniture heights; adjustments of traffic patterns.

Face to Face direct communication between the occupational therapist supervising client care and an occupational therapy assistant, which is conducted in the physical presence of one another.

Facilitation Techniques selection, grading, and modification of sensory input which attempts to encourage motion in a non-functioning muscle or muscle group.

Group Interaction Skills abilities in performing tasks in the presence of others; sharing tasks with others; cooperating and competing with others; fulfilling a variety of group membership roles; exercising leadership skills; perceiving and responding to needs of group members.

Inhibition Techniques selection, grading, and modification of sensory input which attempts to decrease muscle tone or excess motion that interferes with function.

Joint Protection/Preservation the principles or techniques of minimizing stress on joints. It includes the use of proper body mechanics; avoidance of excessive weight-bearing, static, or deforming postures.

Kinetic Activities those activities requiring motion. It can include activities of daily living and isometric, assistive, resistive exercises.

Life Space an individual's cultural background, value orientation, and environment.

Life Style the degree, range, and balance of self-care, work, and play/leisure activities.

Louisiana Occupational Therapy Practice Act or *the Act* R.S. 39:3001-3014 as hereafter amended or supplemented.

Mobility skills such as getting in/or out of bed, chair, wheelchair, vehicles, and using transportation.

Motor Skills the level, quality, and/or degree of range of motion, gross muscle strength, muscle tone, endurance, fine motor skills, and functional use.

Object Manipulation skills such as the handling of common objects such as telephone, keys, money, light switches, doorknobs.

Occupational Therapist a person who is licensed to practice occupational therapy, as defined in this Chapter, and whose license is in good standing.

Occupational Therapy the application of any activity in which one engages for the purposes of evaluation, interpretation, treatment planning, and treatment of problems interfering with functional performance in persons impaired by physical illness or injury, emotional disorders, congenital or developmental disabilities, or the aging process, in order to achieve optimum functioning and prevention and health maintenance. The occupational therapist may enter a case for the purposes of providing consultation and indirect services and evaluating an individual for the need of services. Implementation of direct occupational therapy to individuals for their specific medical condition or conditions shall be based on a referral or order from a physician licensed to practice in the state of Louisiana. Practice shall be in accordance with published standards of practice established by the American Occupational Therapy Association, Inc., and the essentials of accreditation established by the agencies recognized to accredit specific facilities and programs. Specific occupational therapy services include, but are not limited to, activities of daily living (ADL); the design, fabrication, and application of prescribed temporary splints; sensorimotor activities; the use of specifically designed crafts; guidance in the selection and use of adaptive equipment; therapeutic activities to enhance functional performance; pre-vocational evaluation and training and consultation concerning the adaptation of physical environments for the handicapped. These services are provided to individuals or groups through medical, health, educational, and social systems. *Occupational therapy* shall not include the administration of massages by employees of the Hot Wells Health Resort.

Occupational Therapy Assistant a person who is licensed to assist in the practice of occupational therapy under the supervision of, and in activity programs with the consultation of, an occupational therapist licensed under this Chapter.

Occupational Performance the performance of self-care, work, and play/leisure activities, the activities of daily living. The performance of these activities requires self-care, work, and play/leisure skills.

Performance Components the learned and developmental patterns of behavior which are the prerequisite foundations of self-care, work, and play/leisure skills. The performance components include: motor skills, sensory integration, cognitive skills, psychological/intrapersonal skills, social/interpersonal skills.

Periodically occurring at regular intervals of time.

Play/Leisure Skills those skills necessary to perform and engage in activities such as games, sports, and hobbies.

Positioning the placing of body parts in proper alignment.

Practice-Experience 1600 hours of documented work as an occupational therapy practitioner is equivalent of one year of practice experience.

Psychological/Intrapersonal Skills the level, quality, and/or degree of self-identity, self-concept, and coping skills.

Reality Orientation the treatment approach aimed at reinforcement of reality; i.e., the use of simple structured activities for orientation to time, place, and person.

Re-Evaluate/Re-Evaluation the process of periodically and systematically reviewing and interpreting the effectiveness and efficiency of client goals, the treatment plan, intervention and any other aspect of an individual's occupational therapy program.

Self-Identity and *Self-Concept* the ability to perceive self needs and expectations from those of others; identify areas of self-competency and limitations; accept responsibility for self; perceive sexuality of self; have self-respect; have appropriate body image; view self as being able to influence events.

Self-Care Skills skills such as dressing, feeding, hygiene/grooming, mobility, and object manipulation.

Sensation reception of stimuli, includes touch, pain, temperature, sterognosis, proprioception/kinesthesia, vestibular, taste, smell, vision, hearing.

Sensory Integration the level, quality, or degree of development and integration of somatosensory functions, reflected in reflex and sensory status, posture, motor activity and praxis, form and space perception, body schema, and self-concept.

Service Competency with respect to an occupational therapy assistant, means one who is appropriately trained and qualified to perform occupational therapy in accordance with the current standards of practice, as identified by the American Occupational Therapy Association.

Significant Others persons who have an important relationship to the client. This could include the client's family, friends, employer, teacher, or other health care providers.

Social/Interpersonal Skills the level, quality, and/or degree of dyadic and group interaction skills.

Splinting the provision of temporary dynamic and/or static splints for the purpose of: relieving pain, maintaining joint alignment, protecting joint integrity, improving function, and/or decreasing deformity.

Structuring Environment the organization of the client's time, activities, and/or physical environment in order to enhance performance (see *environmental adaptations*).

Supervising Occupational Therapist an occupational therapist responsible to the client for occupational therapy who observes, directs, consults with and retains responsibility for the service competence and performance of an occupational therapy assistant in the administration of occupational therapy to such client.

Work Simplification the streamlining of the performance of an activity in order to minimize energy output.

Work Skills skills such as habits, workmanship, actual skills related to specific job tasks. The skills may refer to the work of the student, home manager, or paid employee. Home manager skills include such skills as cooking, budgeting, shopping, clothing maintenance, house-cleaning, and maintenance.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3001-3014 and R.S. 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 12:767 (November 1986), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 28:1976 (September 2002), LR 30:424 (March 2004).

Subchapter B. Standards of Practice

§4905. Scope of Subchapter

A. This Subchapter provides the minimum standards for occupational therapy practice applicable to all persons licensed to practice occupational therapy in the state of Louisiana.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3001-3014 and R.S. 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 12:767 (November 1986).

§4907. Screening

A. Occupational therapists have the responsibility to identify clients who may present problems in occupational performance (work, self-care, and play/leisure) that would require an evaluation.

B. Occupational therapists may screen independently or as members of a team.

C. Screening methods shall be appropriate to the client's age, education, cultural background, medical status, and functional ability.

D. Screening methods may include interview, observation, testing, and record review.

E. Occupational therapists shall communicate the screening results and recommendations only to appropriate individuals.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3001-3014 and R.S. 37:1270(B)(6).
HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 12:767 (November 1986).

§4909. Referral

A. A client is appropriately referred to occupational therapy for remediation, maintenance, or prevention when the client has, or appears to have, a dysfunction or potential for dysfunction in occupational performance (work, self-care, play/leisure) or the performance components (sensorimotor, cognitive, psychosocial).

B. Clients shall be referred to occupational therapy for evaluation, design construction of, or training in therapeutic adaptations that include, but are not limited to, the physical environment, orthotics, prosthetics, and assistive and adaptive equipment.

C. The occupational therapist enters a case at the request of a physician; assumes full responsibility for the occupational therapy assessment; and, in consultation with the physician, establishes the appropriate type, nature, and mode of service.

D. Occupational therapists shall refer clients back to the physician when, in the judgment of the occupational therapists, the knowledge and expertise of another professional is required.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3001-3014 and R.S. 37:1270(B)(6).
HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 12:767 (November 1986).

§4911. Evaluation

A. Occupational therapists shall evaluate the client's performance according to the Uniform Occupational Therapy Checklist (AOTA-Adopted, 1981).

B. Initial occupational therapy evaluations shall consider the client's medical, vocational, educational, activity, social history, and personal/family goals.

C. The occupational therapy evaluation shall include assessment of the functional abilities and deficits as related to the client's needs in the following areas:

1. occupational performance: work, self-care, and play/leisure;

2. performance components: sensorimotor, cognitive, psychosocial;

3. therapeutic adaptations and prevention.

D. All evaluation methods shall be appropriate to the client's age, education, cultural and ethnic background, medical status, and functional ability.

E. The evaluation methods may include observation, interview, record review, and the use of evaluation techniques or tools.

F. When standardized evaluation tools are used, the tests should have normative data for the client characteristics. If normative data are not available, the results should be expressed in a descriptive report.

G. Collected evaluation data shall be analyzed and summarized to indicate the client's current status.

H. Occupational therapists shall document evaluation results in the client's record and indicate the specific evaluation tools and methods used.

I. Occupational therapists shall communicate evaluation results to the referring physician and/or appropriate persons in the facility.

J. If the results of the evaluation indicate areas that require intervention by other professionals, the occupational therapist should refer the client back to the physician or appropriate persons in the facility.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3001-3014 and R.S. 37:1270(B)(6).
HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 12:767 (November 1986).

§4913. Individual Program Planning

A. Occupational therapists shall use the results of the evaluation to develop an individual occupational therapy program that is:

1. stated in measurable and reasonable terms appropriate to the client's needs and goals and expected prognosis;

2. consistent with current principles and concepts of occupational therapy theory and practice.

B. The planning process shall include:

1. identifying short and long-term goals;

2. collaborating with client, family, other professionals, and community resources;

3. selecting the media, methods, environment, and personnel needed to accomplish goals;

4. determining the frequency and duration of occupational therapy services.

C. This initial program plan shall be prepared and documented promptly.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3001-3014 and R.S. 37:1270(B)(6).
HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 12:767 (November 1986).

§4915. Individual Program Implementation

A. Implementation of direct occupational therapy to individuals for their specific medical condition or conditions shall be based on a referral or order from a physician licensed to practice in the state of Louisiana.

B. Occupational therapists shall implement the program according to the program plan. Occupational therapy assistants may assist in program implementation under the supervision of and in consultation with a supervising occupational therapist, as prescribed by §§4919 and 4925.

C. Occupational therapists shall formulate and implement program modifications consistent with changes in the client's occupational performance and performance components.

D. Occupational therapists shall periodically re-evaluate and document the client's occupational performance and performance components.

E. Occupational therapists shall promptly document the occupational therapy services provided and the frequency of the services.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3001-3014 and R.S. 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 12:767 (November 1986), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 28:1977 (September 2002).

§4917. Discontinuation of Services

A. Occupational therapists shall discontinue services when the client has achieved the goals or has achieved maximum benefit from occupational therapy.

B. Occupational therapists shall document the comparison of the initial and current state of functional abilities and deficits in occupational performance and performance components.

C. Occupational therapists shall prepare a discharge plan that is consistent with the occupational therapy, client, interdisciplinary team, family and goals, and the expected prognosis. Consideration should be given to appropriate community resources for referral and environmental factors or barriers that may need modification.

D. Occupational therapists shall allow sufficient time for the coordination and the effective implementation of the discharge plan.

E. Occupational therapists shall document recommendations for follow-up or re-evaluation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3001-3014 and R.S. 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 12:767 (November 1986).

§4919. Quality Assurance

A. The occupational therapist shall periodically and systematically review all aspects of individual occupational therapy programs for effectiveness and efficiency.

B. Occupational therapists shall periodically and systematically review the quality and appropriateness of total services delivered, using predetermined criteria that reflect professional consensus and recent development in research and theory.

C. Following acceptance of responsibility to supervise an occupational therapy assistant, but prior to utilization of such assistant in the implementation of any client program plan or other administration of occupational therapy to a client, the supervising occupational therapist shall initially evaluate and document the occupational therapy assistant's service competency to administer all occupational therapy services which are to be performed under his or her supervision and direction. Following such an initial evaluation the supervising occupational therapist shall thereafter annually conduct and document a service competency evaluation to assess the occupational therapy assistant's performance during the preceding year. Such documentation shall include the date the evaluation was performed, a description of the tasks evaluated, and the name, signature and Louisiana license number of the supervising occupational therapist conducting the evaluation. A supervising occupational therapist shall cause such documentation to be maintained by the occupational therapy assistant and each clinic, facility or home health agency at or for which an occupational therapy assistant practices under his or her supervision. In practice settings where an occupational therapy assistant is supervised by more than one occupational therapist, evaluations performed by one supervising occupational therapist will satisfy the requirements of this Section for all occupational therapists supervising the occupational therapy assistant in the performance of the same services, provided that their name, signature and Louisiana license number appears on the evaluation.

D. A supervising occupational therapist is responsible for and must be capable of demonstrating compliance with the requirements of this Chapter respecting supervision of occupational therapy assistants.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3001-3014 and R.S. 37:1270.B.(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 12:767 (November 1986), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 28:1977 (September 2002).

§4921. Suspension and Revocation of License; Refusal to Issue or Renew; Unprofessional Conduct

A. The board may refuse to issue or renew, may suspend or revoke, or many impose probationary conditions on any occupational therapy or occupational therapy assistant license, if the licensee or applicant for license has been guilty of unprofessional conduct which has endangered or likely to endanger the health, welfare, or safety of the public.

B. As used herein and R.S. 37:3011, *unprofessional conduct* by an occupational therapist or occupational therapy assistant shall mean:

1. conviction of a crime or entry of a plea of guilty or nolo contendere to a criminal charge constituting a felony under the laws of Louisiana, of the United States, or of the state in which such conviction or plea was entered;

2. conviction of a crime or entry of a plea of guilty or nolo contendere to any criminal charge arising out of or in connection with the practice of occupational therapy;

3. perjury, fraud, deceit, misrepresentation, or concealment of material facts in obtaining a license to practice occupational therapy;

4. providing false testimony before the board or providing false sworn information to the board;

5. habitual or recurring abuse of drugs, including alcohol, which affect the central nervous system and which are capable of inducing physiological or psychological dependence;

6. solicitation of patients or self-promotion through advertising or communication, public or private, which is fraudulent, false, deceptive, or misleading;

7. making or submitting false, deceptive, or unfounded claims, reports, or opinions to any patient, insurance company, or indemnity association, company, individual, or governmental authority for the purpose of obtaining anything of economic value;

8. cognitive or clinical incompetency;

9. continuing or recurring practice which fails to satisfy the prevailing and usually accepted standards of occupational therapy practice in this state;

10. knowingly performing any act which in any way assists an unlicensed person to practice occupational therapy, or having professional connection with or lending one's name to an illegal practitioner;

11. paying or giving anything of economic value to another person, firm, or corporation to induce the referral of patients to the occupational therapist or occupational therapy assistant;

12. interdiction by due process of law;

13. inability to practice occupational therapy with reasonable competence, skill, or safety to patients because of mental or physical illness, condition or deficiency, including but not limited to deterioration through the aging process and excessive use or abuse of drugs, including alcohol;

14. refusal to submit to examination an inquiry by an examining committee of physicians appointed by the board to inquire into the licensee's physical and/or mental fitness and ability to practice occupational therapy with reasonable skill or safety to patients;

15. practicing or otherwise engaging in any conduct or functions beyond the scope of occupational therapy as defined by the Act or these rules;

16. the refusal of the licensing authority of another state to issue or renew a license, permit, or certificate to practice occupational therapy in that state, or the revocation, suspension, or other restriction imposed on a license, permit, or certificate issued by such licensing authority which prevents, restricts, or conditions practice in that state, or the surrender of a license, permit, or certificate issued by another state when criminal or administrative charges are pending or threatened against the holder of such license, permit, or certificate;

17. violation of the code of ethics adopted and published by the American Occupational Therapy Association, Inc. (AOTA); or

18. violation of any rules and regulations of the board, or any provisions of the Act, as amended, R.S. 37:3001-3014.

C. Denial, refusal to renew, suspension, revocation, or imposition of probationary conditions upon a licensee may be ordered by the board in a decision made after a hearing in accordance with the Administrative Procedure Act and the applicable rules and regulations of the board. One year after the date of the revocation of a license, application may be made to the board for reinstatement. The board shall have discretion to accept or reject an application for reinstatement but shall hold a hearing to consider such reinstatement.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3011.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 12:767 (November 1986), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 17:885 (September 1991).

§4925. Supervision of Occupational Therapy Assistants

A. The rules of this Section, together with those specified in §4915 and §4919, govern supervision of an occupational therapy assistant by a supervising occupational therapist in any clinical setting.

B. An occupational therapy assistant may assist in implementation of a client program plan in consultation with and under the supervision of an occupational therapist. Such supervision shall not be construed in every case to require the continuous physical presence of the supervising occupational therapist provided, however, that the supervising occupational therapist and the occupational therapy assistant must have the capability to be in contact with each other by telephone or other telecommunication which allows for simultaneous interactive discussion between the supervising occupational therapist and occupational therapy assistant. Supervision shall exist when the occupational therapist responsible for the client gives informed concurrence of the actions of the occupational therapy assistant and adheres to all requirements set forth in this Chapter.

C. Prior to Implementation of Program Plan. Prior to the administration of occupational therapy by an occupational therapy assistant, the supervising occupational therapist shall, in accordance with AOTA standards of practice as may from time to time be amended:

1. perform an evaluation;

2. identify and establish occupational therapy needs, goals and an individual program plan;

3. ensure that the documents created pursuant to §4925.C.1 and §4925.C.2 are made part of the client's record and accessible to the occupational therapy assistant prior to his or her the first treatment session with the client; and

4. be available for a client care conference.

D. Throughout the Duration of Program Plan. Following implementation and throughout the duration of the program plan:

1. a supervising occupational therapist shall periodically and systematically re-evaluate the appropriateness of all services delivered. Such information shall be documented in the client's record, which shall be made available to the occupational therapy assistant. The supervising occupational therapist preparing such revisions shall communicate any critical aspect or significant change in the program plan to the occupational therapy assistant by means of a client care conference prior to the occupational therapy assistant's next treatment session with the client;

2. at all times during which an occupational therapy assistant assists in program plan implementation, the supervising occupational therapist shall be immediately accessible for a client care conference; and

3. an occupational therapy assistant shall not administer occupational therapy to any client whose physical, cognitive, functional or mental status differs substantially from that identified by the supervising occupational therapist's individual program plan in the absence of re-evaluation by, or an immediate prior client care conference with, the supervising occupational therapist.

E. In addition to the terms and conditions specified in §4919 and §4925.A.-D, the following additional requirements are applicable to an occupational therapy assistant's administration of occupational therapy under the supervision of an occupational therapist.

1. In any clinical setting, other than specified by §4925.E.3:

a. an occupational therapy assistant with less than one year of practice experience shall receive close client care supervision in each clinical setting for not less than one of every four, or 25+ percent, of those clients to whom he or she has administered occupational therapy during an average weekly case load. In addition, a client care conference shall be held with respect to each client to whom the occupational therapy assistant administers occupational therapy; or

b. an occupational therapy assistant with more than one but less than two years of practice experience shall receive close client care supervision in each clinical setting for not less than one of every ten, or 10 percent, of those clients seen during an average weekly case load. In addition client care conference shall be held with respect to each client to whom the occupational therapy assistant administers occupational therapy; or

c. an occupational therapy assistant with more than two years of practice experience shall receive a client care conference with respect to each client to whom the occupational therapy assistant administers occupational therapy.

2. School System, Long-Term Psychiatric and Non-Skilled Nursing Home Facility Settings. In addition to the requirements prescribed in §4925.E.1, clients in school system, long-term psychiatric or non-skilled nursing home facility settings shall be re-evaluated or treated by the supervising occupational therapist not less frequently than the earlier of once a month or every sixth treatment session.

3. Home Health Setting. The terms and conditions prescribed by §4925.E.1 shall not be applicable to a home health setting. An occupational therapy assistant may assist in implementation of a client program plan in a home health setting under the supervision of an occupational therapist provided all the following terms, conditions and restrictions of this Chapter, except §4925.E.1, are strictly observed:

a. an occupational therapy assistant shall have had not less than two years practice experience in providing occupational therapy prior to administering occupational therapy in a home health environment;

b. each client in a home health setting to whom an occupational therapy assistant administers occupational therapy shall be re-evaluated or treated by the supervising occupational therapist not less frequently than the earlier of once every two weeks or every sixth treatment session; and

c. a face-to-face client care conference shall occur not less frequently than once every two weeks to discuss all clients to whom the occupational therapy assistant has administered occupational therapy in a home health setting. Such conference shall be documented by the supervising occupational therapist in a supervisory log and maintained by or at the home health entity.

F. Mutual Obligations and Responsibilities. A supervising occupational therapist and occupational therapy assistant shall bear equal reciprocal obligations to insure strict compliance with the obligations, responsibilities and provisions set forth in this Chapter.

G. The administration of occupational therapy other than in accordance with the provisions of this Section and §4919 shall be deemed a violation of these rules, subjecting the occupational therapist and/or an occupational therapy assistant to suspension or revocation of licensure pursuant to §4921.B.18.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3001-3014 and R.S. 37:1270.B.(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 19:340 (March 1993), amended LR 28:1977 (September 2002).

Chapter 51. Acupuncturists and Acupuncturists' Assistants

§5101. Scope of Chapter

A. The rules of this Chapter govern the practice of traditional Chinese acupuncture by acupuncturists and acupuncturists' assistants in the state of Louisiana.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1360 and R.S. 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 19:337 (March 1993).

§5103. Definitions

A. As used in this Chapter, the following terms shall have the meanings specified.

Acupuncture treatment by means of mechanical, thermal, or electrical stimulation effected by the insertion of needles at a point or combination of points on the surface of the body predetermined on the basis of the theory of the physiological interrelationship of body organs with an associated point or combination of points, or the application of heat or electrical stimulation to such point or points, for the purpose of inducing anesthesia, relieving pain, or healing diseases, disorders, and dysfunctions of the body, or achieving a therapeutic or prophylactic effect with respect thereto.

Acupuncture Practice Act or *Act* R.S. 37:1356-1360, as hereafter amended or supplemented.

Board the Louisiana State Board of Medical Examiners.

Independent Medical Judgment the implementation or effectuation of any medical determination where such medical determination is made without the informed concurrence of a licensed physician responsible to the patient for such determination.

Licensed Physician a person possessing a current license to practice medicine in the state of Louisiana.

Supervising Physician a licensed physician approved by the board under Chapter 21 of these rules to supervise a certified acupuncturist's assistant.

B. Masculine terms wheresoever used in this Chapter shall also be deemed to include the feminine.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1360 and R.S. 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 19:337 (March 1993).

§5105. Necessity of Certification

A. No person may act as or undertake to perform or practice acupuncture as an acupuncturist's assistant unless he holds current certification by the board as an acupuncturist's assistant.

B. Any person, other than a licensed physician, who acts as or undertakes to perform or practice acupuncture without a current acupuncturist's assistant's certificate issued under this Chapter shall be deemed to be engaging in the unlawful practice of medicine; provided, however, that none of the provisions of this Chapter shall apply to any person employed by, and acting under the supervision and direction of, any commissioned physician of any the United States Armed Services or Public Health Service, practicing in the discharge of his official duties.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1360 and R.S. 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 19:338 (March 1993).

§5107. Authority and Limitations of Acupuncturist's Assistant

A. An acupuncturist's assistant shall not:

1. exercise independent medical judgment, as defined by §5103.A, except in life-threatening emergencies;

2. issue prescriptions for or dispense any medication and/or complete and issue prescription blanks previously signed by any physician;

3. order for administration or administer any medication to any patient except pursuant to the specific order or direction of his supervising physician;

4. perform or provide any acupuncture procedure, service, or function other than at his place of employment as specified in his certificate unless such procedures, services, or functions are performed in the physical presence of the supervising physician;

5. perform or provide any acupuncture procedure, service, or function when the supervising physician is absent or off duty, unless the personal presence of the supervising physician may be secured within 30 minutes; or

6. identify himself, or permit any other person to identify him, as "Doctor" or render any service to a patient unless the acupuncturist's assistant has clearly identified himself as an acupuncturists' assistant by any method reasonably calculated to advise the patient that the acupuncturist's assistant is not a licensed physician.

B. An acupuncturist's assistant holding Class B certification shall not perform or provide, or attempt to perform or provide, any acupuncture procedure, service, or function other than in the course of *bona fide* scientific research conducted at the direction and under the auspices of his employing hospital, medical school, or clinic.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1360 and R.S. 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 19:338 (March 1993).

§5109. Authority and Limitations of Supervising Physician

A. The supervising physician is responsible for the responsible supervision, control, and direction of the acupuncturist's assistant and retains responsibility to the patient for the competence and performance of the acupuncturist's assistant.

B. A supervising physician shall not concurrently supervise, or be approved to supervise, more than two acupuncturist's assistants.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1360 and R.S. 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 19:338 (March 1993).

§5111. Mutual Obligations and Responsibilities

A. The acupuncturist's assistant and supervising physician shall:

1. immediately notify the board, in writing, of:

a. the termination of the acupuncturist's employment;

b. the retirement or withdrawal from active practice by the supervising physician; and

c. any other change in the employment, functions, activities, or services of the acupuncturist's assistant or the manner or location of their performance;

2. comply with reasonable requests by the board for personal appearances and/or information relative to the functions, activities, and performance of the acupuncturist's assistant and supervising physician;

3. insure that each individual to whom the acupuncturist's assistant provides patient services is expressly advised and understands that the acupuncturist's assistant is not a licensed physician;

4. insure that, with respect to each patient, all activities, functions, services, and treatment measures of the acupuncturist's assistant are immediately and properly documented in written form by the acupuncturist's assistant. Each and every such written entry, such as on histories, physical examination findings, charts, records, and other memoranda, shall be reviewed and countersigned by the supervising physician within 24 hours of the making of such entry.

B. The acupuncturist's assistant and the supervising physician shall bear equal and reciprocal obligations to insure strict compliance with the obligations, responsibilities, and provisions set forth in the rules of this Chapter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1360 and R.S. 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 19:338 (March 1993).

§5113. Causes for Action; Suspension, Revocation, Imposition of Restrictions; Fines; Reinstatement

A. The board may suspend, revoke, or impose probationary conditions and restrictions on the certification of any acupuncturist or acupuncturist's assistant upon a finding, following hearing, that the acupuncturist or acupuncturist's assistant is culpable of:

1. conviction of a crime or entry of a plea of guilty or nolo contendere to a criminal charge constituting a felony under the laws of the Louisiana, of the United States, or of the state in which such conviction or plea was entered;

2. conviction of a crime or entry of a plea of guilty or nolo contendere to any criminal charge arising out of or in connection with the practice of acupuncture;

3. perjury, fraud, deceit, misrepresentation, or concealment of material facts in obtaining a certificate to practice acupuncture;

4. providing false testimony before the board or providing false sworn information to the board;

5. habitual or recurring abuse of drugs, including alcohol, which affect the central nervous system and which are capable of inducing physiological or psychological dependence;

6. solicitation of patients or self-promotion through advertising or communication, public or private, which is fraudulent, false, deceptive, or misleading;

7. making or submitting false, deceptive, or unfounded claims, reports, or opinions to any patient, insurance company, or indemnity association, company, individual, or governmental authority for the purpose of obtaining anything of economic value;

8. cognitive or clinical incompetency;

9. continuing or recurring practice which fails to satisfy the prevailing and usually accepted standards of acupuncture practice in this state;

10. knowingly performing any act which in any way assists an uncertified person to practice acupuncture, or having professional connection with or lending one's name to an illegal practitioner;

11. paying or giving anything of economic value to another person, firm, or corporation to induce the referral of patients to the acupuncturist or acupuncturist's assistant;

12. interdiction by due process of law;

13. inability to practice acupuncture with reasonable competence, skill, or safety to patients because of mental or physical illness, condition, or deficiency, including but not limited to deterioration through the aging process and excessive use or abuse of drugs, including alcohol;

14. refusal to submit to examination and inquiry by an examining committee of physicians appointed by the board to inquire into the certificate holder's physical and/or mental fitness and ability to practice acupuncture with reasonable skill or safety to patients;

15. practicing or otherwise engaging in any conduct or functions beyond the scope of acupuncture as defined by the Acupuncture Practice Act or these rules;

16. the refusal of the licensing authority of another state to issue or renew a license, permit, or certificate to practice acupuncture in that state, or the revocation, suspension, or other restriction imposed on a license, permit, or certificate issued by such licensing authority which prevents, restricts, or conditions practice in that state, or the surrender of a license, permit, or certificate issued by another state when criminal or administrative charges are pending or threatened against the holder of such license, permit, or certificate;

17. violation of any rules and regulations of the board, or any provisions of the Act, as amended, R.S. 37:1356-1360.

B. The board may, as a probationary condition, or as a condition of the reinstatement of any certificate suspended or revoked hereunder, require the acupuncturist or acupuncturist's assistant to pay all costs of the board proceedings, including investigators', stenographers', and attorneys' fees, and to pay a fine not to exceed the sum of $5,000.

C. Any certificate suspended, revoked, or otherwise restricted by the board may be reinstated by the board, provided, however, that no application may be made to the board for reinstatement of a revoked certificate until not less than one year has elapsed from the date of the revocation. The board shall have discretion to accept or reject any application for reinstatement.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1744 and R.S. 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 20:1113 (October 1994).

§5115. Appendix C Approved Acupuncture Training Schools

Acupuncture Training Schools
Approved by the
Louisiana State Board of Medical Examiners
as of December 1, 1992

Academy of Chinese Culture and Health Sciences
Oakland, California

American College of Traditional Chinese Medicine
San Francisco, California

Bastyr College of Natural Health Sciences
Seattle, Washington

Emperor's College of Oriental Medicine
Santa Monica, California

Five Branches Institute, College of Traditional Chinese Medicine
Santa Cruz, California

International Institute of Chinese Medicine
Santa Fe, New Mexico

Midwest Center for the Study of Oriental Medicine
Racine, Wisconsin

New England School of Acupuncture
Watertown, Massachusetts

Northwest Institute of Acupuncture and Oriental Medicine
Seattle, Washington

Oregon College of Oriental Medicine
Portland, Oregon

Oriental Medical Institute of Hawaii
Honolulu, Hawaii

Pacific College of Oriental Medicine
San Diego, California

Samra University of Oriental Medicine
Los Angeles, California

Tai Hsuan Foundation
Honolulu, Hawaii

Traditional Acupuncture Institute
Columbia, Maryland

Tri-State Institute of Traditional Chinese Acupuncture
Stamford, Connecticut

Yo San University of Traditional Chinese Medicine
Santa Monica, California

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1360 and R.S. 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 19:338 (March 1993).

Chapter 53. Licensed Midwives

Subchapter A. Standards of Practice

§5301. Scope of Practice

A. Licensed midwife practitioners may provide care only to low risk clients determined by physician evaluation and examination to be prospectively normal for pregnancy and childbirth, and at low risk for the development of medical complications. Licensed midwife practitioners shall provide such care with the supervision of a physician who is actively engaged in the practice of obstetrics.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270 and R.S. 37:3241-3257.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 12:518 (August 1986), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 17:779 (August 1991).

§5303. Skills

A. All licensed midwives shall have the skills necessary for safe practice, including the ability to assess, monitor on an ongoing basis, and manage normal antepartum, intrapartum, and postpartum situations; perform newborn evaluations; identify and assess maternal, fetal, and infant deviations from normal; provide effective lifesaving measures, including CPR; manage emergency situations appropriately; establish and maintain asceptic techniques and master basic observational skills and those special observational skills required for out-of-hospital deliveries.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270 and R.S. 37:3241-3257.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 12:518 (August 1986), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 17:779 (August 1991).

§5305. Community Resources

A. The licensed midwife practitioner must be familiar with community resources for pregnant women such as prenatal classes, the parish health unit and supplemental food programs. The client shall be referred to such resources as appropriate and encouraged to take a prepared childbirth, preferably one oriented toward home birth.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270 and R.S. 37:3241-3257.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 12:518 (August 1986), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 17:779 (August 1991).

§5307. Appropriate Equipment

A. All licensed midwife practitioners shall have available, for their immediate use, appropriate birthing equipment, including equipment to assess maternal, fetal, and newborn well-being, maintenance asceptic technique, perform emergency maternal or infant resuscitation, and accomplish all permitted emergency procedures. All equipment used in the practice of midwifery shall be maintained in an asceptically clean manner, and be in good working order.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270 and R.S. 37:3241-3257.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 12:518 (August 1986), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 17:779 (August 1991).

§5309. Screening

A. All midwives will use risk factor assessments of their clients in order to establish their initial and continuing eligibility for midwifery services. Clients will be informed of their risk status. All midwives have the right and responsibility to refuse and discontinue services to clients based on these risk factors and to make appropriate referrals when indicated for the protection of the mother and baby. All final decisions on risk factors will be made by the midwife and the client's backup physician.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270 and R.S. 37:3241-3257.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 12:518 (August 1986), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 17:779 (August 1991).

§5311. Initial Medical Evaluation

A. The licensed midwife practitioner must require that the client have a physical examination by a physician and be found to be essentially normal or at low risk before her care can be assumed. The initial physician examination shall include the physical assessment procedures which meet current standards of care set forth by the American College of Obstetricians and Gynecologists (ACOG).

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270 and R.S. 37:3241-3257.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 12:518 (August 1986), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 17:779 (August 1991).

§5313. Required Tests

A. Initial physician examination shall include clinical pelvimetry, and the following laboratory tests: GC screen, blood group and Rh, hematocrit or hemoglobin, rubella titer, and urinalysis. Hematocrit or hemoglobin must be rechecked at 28 and 36 weeks gestation. The midwife must ensure that all women she plans to deliver receive the required tests. Additionally, if no objection is made to the taking of a VDRL test, the physician shall include such test in his examination. The midwife must ensure that the VDRL test was offered to the client.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270 and R.S. 37:3241-3257.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 12:518 (August 1986), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 17:779 (August 1991).

§5315. Acceptance of Clients

A. Prior to the acceptance of a client for care, a licensed midwife practitioner shall inform the client orally and in writing that:

1. certain risks and benefits exist for home birth and certain risks and benefits exist for other childbirth alternatives, (including hospital, physician-assisted birth). The midwife is responsible for informing the client of the risks and benefits of all childbirth options to ensure informed consent;

2. regular antepartum care is required if the midwife is to attend the birth;

3. certain medical conditions and/or client noncompliance with midwife or physician recommendations may preclude midwife attendance at birth or continued midwife care during any phase of the pregnancy;

4. the client must make arrangements for the services of a backup physician located within a 50 mile radius of the client's home and the planned delivery site;

5. the midwife will develop and implement a plan for obtaining consultation from and/or referral to the client's backup physician, and will consult with the client's backup physician or transfer the client when necessary;

6. emergency transport may be required in certain situations; when situations warrant emergency transport and the hazards involved;

7. a specific written consent for out-of-hospital birth with the licensed midwife practitioner must be obtained prior to the onset of labor;

8. the client will be provided with a copy of the labor, birth, and newborn record by the midwife;

9. the midwife's agreement can be terminated at any time that the midwife deems it necessary for maintenance of the client's mental and physical safety. When termination occurs, the reasons for termination will be given in writing and an alternative source of care indicated; and

10. the client may terminate the agreement at any time.

B. Prior to accepting care for a client, the midwife shall consult with a physician who performed the medical evaluation to ensure that the client is at low or normal risk for pregnancy.

C. After accepting care, the midwife shall obtain a detailed obstetric and medical history of the client; including the results of all tests conducted during the medical evaluation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270 and R.S. 37:3241-3257.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 12:518 (August 1986), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 17:779 (August 1991).

§5317. Prenatal Visits

A. Prenatal visits should be every four weeks until 28 weeks gestation, every two weeks from 28 until 35 weeks gestation, and weekly from 36 weeks until delivery.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270 and R.S. 37:3241-3257.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 12:518 (August 1986), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 17:779 (August 1991).

§5319. Physician Visit

A. Each client must be evaluated by the supervising physician at or near the thirty-sixth week. The purpose of this visit is to ensure that the client has no potentially serious medical conditions and has no medical contraindications for delivery by a licensed midwife practitioner or for home birth.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270 and R.S. 37:3241-3257.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 12:518 (August 1986), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 17:779 (August 1991).

§5321. Advance Preparation for Need

A. The licensed midwife practitioner, prior to the onset of labor, must make arrangements for the transport of mother and infant to a hospital and know the client's arrangements for a backup physician and hospitalization should these needs arise.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270 and R.S. 37:3241-3257.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 12:518 (August 1986), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 17:779 (August 1991).

§5323. Scope of Practice

A. The licensed midwife practitioner shall accompany to the hospital any mother or infant requiring hospitalization, giving any pertinent written records and verbal report to the physician assuming care. If possible, she should remain with the mother and/or infant to ascertain outcome. In those instances where it is necessary to continue providing necessary care to the party remaining in the home, the midwife may turn over the care of the transport of mother or child to qualified emergency or hospital personnel. All necessary written records shall be forwarded with such personnel and a verbal report must be given.

B. For home birth, the licensed midwife practitioner will make a home visit three to five weeks prior to the Estimated Date of Confinement (EDC) to assess the physical environment, including the availability of telephone and transportation, to ascertain whether the woman has all the necessary supplies, to prepare the family for the birth, and to instruct the family to correct problems and/or deficiencies.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270 and R.S. 37:3241-3257.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 12:519 (August 1986), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 17:779 (August 1991).

§5327. Normal Delivery

A. The licensed midwife practitioner shall remain with the mother and infant for at least two hours postpartum, or until the mother's condition is stable and the infant's condition is stable, whichever is longer. Maternal stability is evidenced by normal blood pressure, normal pulse, normal respirations, firm fundus, and normal lochia. Infant stability is evidenced by established respirations, normal temperature, and strong sucking.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270 and R.S. 37:3241-3257.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 12:519 (August 1986), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 17:779 (August 1991).

§5329. Examination and Labor

A. The licensed midwife practitioner will not perform any vaginal examinations on a woman with ruptured membranes and no labor, other than an initial examination to be certain that there is no prolapsed cord. Once active labor is assured in progress, exams may be made as necessary.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270 and R.S. 37:3241-3257.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 12:519 (August 1986), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 17:779 (August 1991).

§5331. Operative Procedures

A. The licensed midwife practitioner will not perform, routinely, an operative procedure other than artificial rupture of membranes when the head is well engaged or at zero station, clamping and cutting the umbilical cord, repair of first or second degree perinial lacerations, or repair of episiotomy, if done.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270 and R.S. 37:3241-3257.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 12:519 (August 1986), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 17:779 (August 1991).

§5333. Medications

A. A midwife licensed under this Chapter shall administer an eye prophylaxis to prevent infant blindness which is authorized by the department and may administer the following medications under the conditions indicated:

1. oxygen for fetal distress, infant resuscitation;

2. local anesthetic, by infiltration, only for the purpose of postpartum repair of tears, lacerations, or episiotomy (no controlled substances);

3. vitamin K, by injection, for control of bleeding in the newborn;

4. oxytocin (pitocin or methergine) by injection or orally, only for postpartum control of maternal hemorrhage;

5. intravenous fluids (Ringer's Lactate with or without D5W, normosol-R with or without D5W) with additional medications as provided by a physician's order or protocol to control maternal hemorrhage.

B. A midwife licensed under these regulations may lawfully have possession of small quantities of the above-named medications and the equipment normally required for administration. Each use of medication shall be reported in the midwife's client charts, and shall be summarized in a semi-annual reports provided to the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270 and R.S. 37:3241-3257.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 12:519 (August 1986), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 17:779 (August 1991).

§5335. Correction of Presentation

A. The licensed midwife practitioner will not attempt to correct fetal presentations by external or internal version nor will the midwife use any artificial, forcible, or mechanical means to assist the birth.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270 and R.S. 37:3241-3257.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 12:519 (August 1986), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 17:779 (August 1991).

§5337. Emergency Measures

A. The following measures are permissible in an emergency situation:

1. cardiopulmonary-resuscitation;

2. episiotomy;

3. intramuscular administration of pitocin for the control of postpartum hemorrhage in accord with the prescription or standing order of a physician;

4. intravenous (IV) fluids and medications in accordance with the prescription or standing order of a physician.

B. When any of the above measures is utilized, it will be charted on the birth record with detail describing the emergency situation, the measure taken, and the outcome.

C. The back-up physician of any client upon whom an emergency measure is taken must be contacted by the midwife immediately upon control of the emergency situation, and the midwife shall then transfer care of the client to such physician as he may direct or request.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270 and R.S. 37:3241-3257.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 12:519 (August 1986), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 17:779 (August 1991).

§5339. Prevention of Infant Blindness

A. Without one hour of birth, the licensed midwife practitioner shall administer two drops of 1.0 percent solution of silver nitrate or other agent of equal effectiveness and harmlessness into the eyes of the infant in accordance with applicable state laws and regulations governing the prevention of infant blindness.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270 and R.S. 37:3241-3257.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 12:519 (August 1986), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 17:779 (August 1991).

§5341. Birth Registration

A. All licensed midwife practitioners shall request copies of printed instructions relating to completion of birth certificates from the Louisiana State Registrar of Vital Records. The licensed midwife practitioner must complete a birth certificate in accordance with these instructions and file it with the registrar within five days of the birth.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270 and R.S. 37:3241-3257.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 12:519 (August 1986), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 17:779 (August 1991).

§5343. Physician Evaluation of Newborn

A. The licensed midwife practitioner must recommend that any infant delivered by the midwife be evaluated by a physician within three days of age or sooner if it becomes apparent that the newborn needs medical attention for problems of, but not limited to, congenital anomalies.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270 and R.S. 37:3241-3257.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 12:519 (August 1986), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 17:779 (August 1991).

§5345. Postpartum Visits

A. The licensed midwife practitioner shall make a postpartum visit to evaluate the condition of mother and infant within 36 hours of birth, with further visits as necessary.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270 and R.S. 37:3241-3257.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 12:519 (August 1986), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 17:779 (August 1991).

§5347. Record Keeping and Report Requirements

A. All midwives shall keep accurate and complete records of all care provided and data gathered for each client. Licensed midwife practitioners shall semi-annually submit a summary report in a form prescribed by the board of the statistics of each birth attended. This report must be submitted within the months of January and July of each year. Midwives shall provide all other reports as required and mandated by the board. A copy of all submissions will be provided to members of the Louisiana Advisory Committee on Midwifery.

B. The midwife shall maintain an individual client chart for each woman under her care. The chart shall include results of laboratory tests, observations from each prenatal visit, records of consultations with physicians or other health care providers, and a postpartum report concerning labor, delivery, and condition of the newborn child. The chart shall be made available to the client upon request, and with the client's consent, to any physician or health care provider who is called in as a consultant or backup. This chart shall be kept on standard obstetric forms, or other forms approved by the board. Inactive records shall be maintained no less than 10 years. All records are subject to review by the board.

C. Evidence of the required medical evaluation and physician visits shall be maintained in the client's records.

D. The attending midwife shall prepare a summary of labor, delivery, and assessment of the newborn, using the Hollister form, or an alternate form containing substantially similar information. One copy of each summary shall be retained with the client's chart and one copy transmitted to the pediatrician or family doctor.

E. Copies of the disclosure and consent forms required by §5315 and of the report required by §5337 shall be maintained in the records.

F. The attending midwife shall make a timely report of the birth incidents to the registrar.

G. In addition to the reports required for birth and death registration, the licensed midwife must report within 48 hours to the board any fetal, neonatal, or maternal mortality in clients for whom she has cared.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270 and R.S. 37:3241-3257.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 12:519 (August 1986), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 17:779 (August 1991).

§5349. Statistics

A. The board shall review all reports from licensed midwife practitioners, complete annual midwifery statistics, and make them available to all interested groups or persons.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270 and R.S. 37:3241-3257.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 12:520 (August 1986), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 17:779 (August 1991).

Subchapter B. Phases of Maternity Care

§5351. Scope of Subchapter

A. The rules of the Subchapter govern the care that is required of the licensed midwife practitioner to address the specific needs of the client during the various phases of the interconceptional and child bearing period.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270 and R.S. 37:3241-3257.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 12:520 (August 1986), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 17:779 (August 1991).

§5353. Initiation of Physical Care

A. At the visit when physical care of the client is initiated, the licensed midwife practitioner shall review the results of the medical evaluation to ensure that the client has received a general physical examination which included the taking of a comprehensive medical, obstetrical, and nutritional history sufficient to identify potentially dangerous conditions that might preclude midwife care. The midwife must ensure that the following examinations have been completed for each client: a pelvic examination to size the uterus, a speculum examination, blood pressure, routine bloodwork (CBC with differential, rubella titer, VDRL, hematocrit or hemoglobin, Rh, and antibody screening), Pap smear, height, weight, and urine testing for glucose and protein. After conducting these examinations or reviewing their results, the midwife shall make an initial nutritional assessment, counsel the clients as to the nutritional needs of mother and fetus during pregnancy and develop a comprehensive plan of care for the client which identifies all problems and need for consultation and establishes realistic health care goals.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270 and R.S. 37:3241-3257.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 12:520 (August 1986), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 17:779 (August 1991).

§5355. Routine Antepartum Care

A. At each prenatal visit, the midwife will check the client's weight, blood pressure, fundal height, urinalysis (protein and glucose), and general health, including checking for pain, bleeding, headaches, edema, dizziness, and other symptoms of preeclampsia. The midwife shall monitor uterine measurements, fetal heart tones, and fetal activity and shall obtain a medical and nutritional history since the last visit. The midwife shall conduct or arrange for additional laboratory tests as indicated, including Rh antibody screening, blood sugar screening, gonorrhea culture, and periodic hematocrit or hemoglobin screening.

B. A record of fetal heart rate and rhythm shall be made at least every 30 minutes during first stage, after each contraction in second stage and after rupture of membranes. The duration, interval, and intensity of uterine contraction and material blood pressure shall be recorded at least ever hour and immediately after delivery.

C. During labor and delivery, the attending midwife is responsible for monitoring the condition of mother and fetus; assisting with the delivery; coaching labor; repairing minor tears as necessary; examining and assessing the newborn; inspecting the placenta, membranes, and cord vessels; inspecting the cervix and upper vaginal vault, if indicated; and managing any third-stage material bleeding.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270 and R.S. 37:3241-3257.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 12:520 (August 1986), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 17:779 (August 1991).

§5357. Routine Postpartum Care

A. The licensed midwife practitioner shall remain in attendance for at least two hours after the delivery.

B. Immediately following delivery of the placenta, the midwife must determine that the uterus is firmly contracted without excessive bleeding. The uterus should be massaged firmly to stimulate contraction if relaxation is noted.

C. In case of an unsensitized Rh negative mother, the midwife shall obtain a sample of cord blood from the placenta and arrange for testing within 24 hours of the birth and ensure referral to back-up physician so that the mother receives Rh immunoglobin as indicated within 72 hours of delivery.

D. The midwife shall provide the client with information concerning routine postpartum care of the mother and infant, including information on breast-feeding, care of navel, and perinatal care.

E. The midwife shall recommend that the parents immediately contact the pediatrician or family doctor who will be assuming care for the infant to arrange for a neonatal examination. The midwife shall provide the doctor with her written summary of labor, delivery, and assessment of the newborn and shall be available to consult with the doctor concerning the infant's condition.

F. The midwife shall make a postpartum contact within 36 hours of birth, with further visits as necessary. The purpose of these contacts is to ascertain that the infant is alert, has good color, is breathing well, and is establishing a healthy pattern of waking, feeding, and sleeping and that the mother is not bleeding excessively, has a firm fundus, does not have a fever or other signs of infection, is voiding properly, and is establishing successful breastfeeding. In the event that any complications arise, the midwife shall consult with a physician or other appropriate health care provider or shall ensure that the client contacts her own physician.

G. The midwife may conduct a postpartum office visit not later than six weeks postpartum, to include a recommendation for rubella vaccine if indicated, counseling concerning contraception and answering any other questions that have arisen. Alternatively, the client may be referred back to her primary care physician or other health care provider for this care.

H. The midwife shall encourage the mother to have a postpartum evaluation conducted by a physician within two to six weeks after delivery.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270 and R.S. 37:3241-3257.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 12:520 (August 1986), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 17:779 (August 1991).

§5359. Required Newborn Care

A. The licensed midwife practitioner shall be responsible for care immediately following the delivery only. Subsequent infant care should be managed by a physician or a physician/registered nurse team. This does not preclude the midwife from providing counseling regarding routine newborn care and breastfeeding and arranging for the neonatal tests required by state law. If any abnormality is suspected, the newborn must be sent for medical evaluation as soon as possible.

B. Immediately following delivery the midwife shall:

1. wipe face, then suction (with bulb syringe) mouth and nose if necessary;

2. prevent heat loss by the neonate;

3. determine Apgar scores at one and five minutes after delivery;

4. observe and record: skin color and tone, heart rate and rhythm, respiration rate and character, estimated gestational age (premature, term, or post-mature), weight, length, and head circumference.

C. The midwife shall ensure that a medically acceptable drug for eye prophylaxis is available at the time of delivery and take appropriate measures designed to prevent infant blindness.

D. The midwife is responsible for ensuring and documenting that a PKU test and all other neonatal tests required by state law are performed on the infant between 24 hours and no later than 14 days after birth. If any of the tests are positive, the midwife shall notify the department. If the parents object to such tests being performed on the infant, the midwife shall document this objection.

E. The midwife shall leave clear instructions for follow-up care including signs and symptoms of conditions that require medical evaluation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270 and R.S. 37:3241-3257.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 12:520 (August 1986), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 17:779 (August 1991).

Subchapter C. Risk Factors

§5361. Unapproved Practice

A. The licensed midwife practitioner shall provide care only to clients determined to be at low or normal risk of developing complications during pregnancy and child birth by a supervising physician.

B. The midwife shall not knowingly accept or thereafter maintain responsibility for the prenatal or intraparturn care of a woman who:

1. has had a previous Cesarean section or other known uterine surgery such as hysterectomy or myornectomy, except upon the express approval of the board which may be granted upon individual application of the client or midwife where the client has previously been evaluated by a physician who determines that vaginal delivery represents no untoward medical/obstetrical risk for the client and is not contraindicated;

2. has a history of difficult to control hemorrhage with previous deliveries;

3. has a history of thrombophlebitis or pulmonary embolism;

4. has diabetes, hypertension, Rh disease with positive titer, active tuberculosis, active syphilis, active gonorrhea, epilepsy, hepatitis, heart disease, kidney disease, or blood dyscrasia;

5. contracts genital herpes simplex in the first trimester or has active genital herpes in the last four weeks of pregnancy;

6. has a contracted pelvis;

7. has severe psychiatric illness or a history of severe psychiatric illness in the six month period prior to pregnancy;

8. is addicted to narcotics or other drugs;

9. ingests more than two ounces of alcohol or 24 ounces of beer a day on a regular day or participates in binge drinking;

10. smokes 20 cigarettes or more per day, and is not likely to cease in pregnancy;

11. has a multiple gestation;

12. has a fetus of less than 37 weeks gestation at the onset of labor;

13. has a gestation beyond 42 weeks by dates and examination;

14. has a fetus in any presentation other than vertex at the onset of labor;

15. is a primigravida with an unengaged fetal head in active labor, or any woman who has rupture of membranes with unengaged fetal head, with or without labor;

16. has a fetus with suspected or diagnosed congenital anomalies that may require immediate medical intervention;

17. has preeclampsia;

18. has a parity greater than five with poor obstetrical history; or

19. is younger than 16 or a primipara older than 40.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270 and R.S. 37:3241-3257.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 12:521 (August 1986), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 17:779 (August 1991).

§5363. Required Physician Consultation

A. The midwife shall obtain medical consultation or refer for medical care any woman who during the anteparturn period:

1. develops edema of the face and hands;

2. develops severe, persistent headaches, epigastric pain, or visual disturbances;

3. develops a blood pressure of 140/90 or an increase of 30 mm Hg systolic or 15 mm Hg diastolic over her normal blood pressure;

4. does not gain 14 pounds by 30 weeks gestation or at least 4 pounds a month in the last trimester or gains more than 6 pounds in two weeks in any trimester;

5. develops glucosuria or proteinuria;

6. has symptoms of vaginitis;

7. has symptoms of urinary tract infection;

8. has vaginal bleeding before onset of labor;

9. has rupture of membranes prior to 37 weeks gestation;

10. has marked decrease in or cessation of fetal movement;

11. has inappropriate gestational size;

12. has demonstrated anemia by blood test (hematocrit less than 30 percent);

13. has a fever of 100.4° F or 38° C for 24 hours;

14. has effacement and/or dilation of the cervix prior to 36 weeks gestation;

15. has polyhydramnios or oligohydramnios;

16. has excessive vomiting or continued vomiting after 24 weeks gestation;

17. is found to be Rh negative;

18. has severe, protruding varicose veins of extremities or vulva;

19. has known structural abnormalities of the reproductive tract;

20. has a history of two or more stillbirths from any cause or of stillbirth where cause was unpreventable;

21. has an abnormal Pap smear;

22. reaches a gestation of 41 weeks by dates and examination.

B. The midwife shall obtain medical consultation or refer for medical care any woman who during the intraparturn period:

1. develops a blood pressure of 140/90 or an increase of 30 mm Hg systolic or 15 mrn Hg diastolic over her normal blood pressure;

2. develops severe headache, epigastric pain, or visual disturbance;

3. develops proteinuria;

4. develops a fever over 100.4° F or 38° C;

5. develops respiratory distress;

6. has persistent or recurrent fetal heart tones below 100 or above 160 beats per minute between or during contractions, or a fetal heart rate that is irregular;

7. has ruptured membranes without onset of labor after 12 hours;

8. has bleeding prior to delivery (other than bloody show);

9. has meconium or blood stained amniotic fluid with abnormal fetal heart tones;

10. has a presenting part other than a vertex;

11. does not progress in effacement, dilation, or station after two hours in active labor (or one hour if distance to hospital is greater than one hour);

12. does not show continued progress to deliver after two hours of second stage labor (or one hour if distance to hospital is greater than one hour);

13. does not deliver the placenta within one hour if there is no bleeding and the fundus is firm (or 30 minutes, if distance to hospital is greater than one hour);

14. has a partially separated placenta during the third stage of labor with bleeding or with a blood pressure below 100 systolic if the pulse rate exceeds 100 beats per minute or who is weak and dizzy;

15. bleeds more than 500 cc with or after the delivery of the placenta;

16. has retained placental fragment or membranes;

17. desires medical consultation or transfer.

C. The midwife shall obtain medical consultation or refer for medical care any woman who, during the postpartum period:

1. has a third or fourth degree laceration;

2. has uterine atony;

3. bleeds in an amount greater than normal lochial flow;

4. does not void within 6 hours of birth;

5. develops a fever greater than 100.4° F or 38° C on any two of the first 10 days postpartum excluding the first 24 hours;

6. develops foul smelling lochia;

7. develops blood pressure below 100/50 if pulse exceeds 100, pallor, cold clammy skin, and/or weak pulse.

D. The midwife shall obtain medical consultation or refer for medical care any infant who:

1. has an Apgar score of 7 or less at 5 minutes;

2. has any obvious anomaly;

3. develops grunting respirations, retractions, or cyanosis;

4. has cardiac irregularities;

5. has a pale, cyanotic, or grey color;

6. develops jaundice within 48 hours of birth;

7. has an abnormal cry;

8. weighs less than five pounds or 2,500 grams or weighs more than nine pounds or 4,100 grams;

9. shows signs of prematurity, dysmaturity, or postmaturity;

10. has meconium staining of the placenta, cord, and/or infant with signs or symptoms of aspiration pneumonia;

11. does not urinate or pass meconium in the first 12 hours after birth;

12. is lethargic or does not feed well;

13. has edema;

14. appears weak or flaccid, has abnormal feces, or appears not to be normal in any other respect;

15. has persistent temperature below 97° F; or

16. has jitteriness not resolved after feeding.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270 and R.S. 37:3241-3257.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 12:521 (August 1986), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 17:779 (August 1991).

Chapter 55. Respiratory Therapists and Respiratory Therapy Technicians

Subchapter A. General Provisions

§5501. Scope of Chapter

A. The rules of this Chapter govern the practice of respiratory care in the state of Louisiana.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(B)(6) and R.S. 37:3351-3361.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 12:767 (November 1986), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 25:2223 (November 1999).

§5503. General Definitions

A. As used in this Chapter, unless the context clearly states otherwise, the following terms and phrases shall have the meanings specified.

Applicant a person who has applied to the board for licensure as a licensed registered respiratory therapist or a licensed certified respiratory therapist.

Board the Louisiana State Board of Medical Examiners.

Certified Respiratory Therapist also known as Certified Respiratory Therapy Technician, prior to July 1, 1999, means one who has successfully completed the entry level examination or its successor administered by the National Board for Respiratory Care.

Course of Study an accredited, recognized or approved program which leads to a degree or certification of completion within four years, enabling a student to be eligible for registry or certification in respiratory care.

Good Moral Character as applied to an applicant, means that an applicant has not, prior to or during the pendency of an application to the board, been guilty of any act, omission, condition or circumstance which would provide legal cause under R.S. 37:3358 for the denial, suspension or revocation of respiratory care licensure; the applicant has not, prior to or in connection with his application, made any representation to the board, knowingly or unknowingly, which is in fact false or misleading as to material fact or omits to state any fact or matter that is material to the application; and the applicant has not made any representation or failed to make a representation or engaged in any act or omission which is false, deceptive, fraudulent or misleading in achieving or obtaining any of the qualifications for a license required by Subpart 2 of these rules.

License the lawful authority of a registered respiratory therapist or a certified respiratory therapist to engage in the health specialty of respiratory therapy in the state of Louisiana, as evidenced by a license duly issued by and under the official seal of the board.

Licensed Respiratory Therapist a person who is licensed by the board and has the lawful authority to engage in the practice of respiratory care in the state of Louisiana, only under the qualified medical direction and supervision of a licensed physician, as evidenced by certificate duly issued by and under the official seal of the board. The term "licensed respiratory therapist" shall signify both certified respiratory therapist and registered respiratory therapist.

Medical Gases gases commonly used in a respiratory care department in the calibration of respiratory care equipment (nitrogen, oxygen, compressed air and carbon dioxide), in the diagnostic evaluation of diseases (carbon monoxide, nitrogen, carbon dioxide, helium and oxygen) and in the therapeutic management of diseases (nitrogen, carbon dioxide, helium, oxygen and compressed air).

National Board for Respiratory Care the official credentialing board of the profession or its successor.

Physician a person who is currently licensed by the board to practice medicine in the state of Louisiana.

Registered Respiratory Therapist one who has successfully completed the Advanced Practitioner Examination or its successor administered by the National Board for Respiratory Care.

Respiratory Care the allied health specialty practiced under the direction, supervision and approval of a licensed physician involving the treatment, testing, monitoring, and care of persons with deficiencies and abnormalities of the cardiopulmonary system. Such therapy includes, but is not limited to, the following activities conducted upon written prescription or verbal order of a physician and under his supervision:

a. application and monitoring of oxygen, ventilatory therapy, bronchial hygiene therapy, cardiopulmonary rehabilitation and resuscitation;

b. insertion and care of airways as ordered by a physician;

c. institution of any type of physiologic monitoring applicable to respiratory care;

d. administration of drugs and medications commonly used in respiratory care that have been prescribed by a physician to be administered by qualified respiratory care personnel;

e. initiation of treatment changes and testing techniques required for the implementation of respiratory care protocols as directed by a physician;

f. administration of medical gases and environmental control systems and their apparatus;

g. administration of humidity and aerosol therapy;

h. application of chest pulmonary therapy;

i. the institution of known and physician-approved patient driven protocols relating to respiratory care under physician approval in emergency situations in the absence of immediate direction by a physician;

j. application of specific procedures and diagnostic testing as ordered by the physician to assist in diagnosis, monitoring, treatment, and research, including those procedures required and directed by the physician for the drawing of blood samples to determine acid-base status and blood gas values, the collection of sputum for analysis of body fluids, the measurement of cardiopulmonary functions as commonly performed in respiratory therapy, and the starting of intravenous lines for the purpose of administering fluids as pertinent to the practice of respiratory care under the supervision of a licensed physician;

k. supervision of other respiratory therapy personnel; and

l. transcription and implementation of the written and verbal orders of a physician.

Respiratory Therapy Practice Act or *the Act* Acts 1985, Number 408, as amended, R.S. 37:3351-3361.

United States Government any department, agency or bureau of the United States Armed Forces or Veterans Administration.

B. Respiratory care shall also include teaching patient and family respiratory care procedures as part of a patient's ongoing program and consultation services or for health, educational, and community agencies under the order of a licensed physician.

C. Masculine terms wherever used in this Chapter shall also be deemed to include the feminine.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(B)(6) and R.S. 37:3351-3361.
HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 12:767 (November 1986), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 19:747 (June 1993), LR 25:2223 (November 1999).

Subchapter B. Unauthorized Practice, Exemptions, and Prohibitions

§5505. Unauthorized Practice

A. No person shall engage in the practice of respiratory care in the state of Louisiana unless he has in his possession a current license or temporary license duly issued by the board under Subpart 2 of these rules.

B. No person shall hold himself out to the public, an individual patient, a physician, dentist or podiatrist, or to any insurer or indemnity company or association or governmental authority as a registered respiratory therapist or certified respiratory therapist, nor shall he directly or indirectly identify or designate himself as a respiratory therapist or licensed respiratory therapist, nor use in connection with his name the letters "CRT" (Certified Respiratory Therapist), "RRT" (Registered Respiratory Therapist), or any other words, letters, abbreviations, insignia, or signs tending to indicate or imply that the person is a registered respiratory therapist or a certified respiratory therapist or that the services provided by such person constitute respiratory care, unless such person possesses a current license or temporary license duly issued by the board under Subpart 2 of these Rules.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(B)(6) and R.S. 37:3351-3361.
HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 12:767 (November 1986), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 25:2224 (November 1999).

§5507. Exemptions

A. The prohibitions of §5505 of this Chapter shall not apply to a person employed exclusively by, or at an institution operated by the United States Government when acting within the course and scope of such employment.

B. The prohibitions of §5505 of this Chapter shall not apply to a person acting under and within the scope of a license issued by another licensing agency of the state of Louisiana.

C. The prohibitions of §5505 of this Chapter shall not apply to a person pursuing a "course of study" leading to registry or certification in respiratory care at an institution whose program is accredited, recognized or approved by an agency recognized by the Commission on Accreditation of Allied Health Education Programs and approved by the Louisiana State Board of Medical Examiners and who is designated by a title which clearly indicates his status as a student.

D. The prohibitions of §5507 of this Chapter shall not apply to a person not licensed as a respiratory therapist or in accordance with the provisions of these rules but who may be employed in a pulmonary laboratory or physician's office to administer treatment confined to that laboratory or office under the direction and immediate supervision of a licensed physician.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(B)(6) and R.S. 37:3351-3361.
HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 12:767 (November 1986), amended, by the Department of Health and Hospitals, Board of Medical Examiners, LR 25:2224 (November 1999).

§5509. Prohibitions

A. A licensed respiratory therapist shall not:

1. undertake to perform or actually perform any activities as described in §5503, definition or "Respiratory care," except under the written prescription or verbal order of a physician and under his supervision;

2. administer any drugs or medications except as dispensed by a pharmacist and prescribed by a physician or dispensed by a physician; or

3. perform any surgical incisions.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(B)(6) and R.S. 37:3351-3361.
HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 12:767 (November 1986), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 25:2224 (November 1999).

Subchapter C. Supervision of Students

§5511. Scope of Subchapter

A. The Rules of this Subchapter prescribe certain restrictions on and requirements for supervision of students pursuing a "course of study" as that term is defined in this Chapter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(B)(6) and R.S. 37:3351-3361.
HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR

12:767 (November 1986), repromulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 25:2224 (November 1999).

§5515. Supervision of Student

A. A person pursuant to a "course of study" leading to registry or certification in respiratory care shall engage in the practice of respiratory care only under the supervision of a licensed respiratory therapist or a physician who actively practices respiratory care, as provided in this Section.

B. A licensed respiratory therapist or a physician who undertakes to supervise a student shall:

1. undertake to concurrently supervise not more than four students;

2. personally evaluate every patient prior to the provision of any respiratory care treatment or procedure by a student;

3. assign to a student only such respiratory care measures, treatments, procedures and functions as such licensed respiratory therapist or physician has documented that the student by education and training is capable of performing safely and effectively;

4. provide continuous and immediate on-premises direction to and supervision of a student and be readily available at all times to provide advice, instruction, and assistance to the student and to the patient during respiratory care treatment given by a student;

5. not permit a student to perform any invasive procedure or any life-sustaining or critical respiratory care, including therapeutic, diagnostic or palliative procedures, except under the direct and immediate supervision, and in the physical presence of, the supervising therapist and/or physician; and

6. provide and perform periodic evaluation of every patient administered to by a student and make modifications and adjustments in the patient's respiratory care treatment plan, including those portions of the treatment plan assigned to the student.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(B)(6) and R.S. 37:3351-3361.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 12:767 (November 1986), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 19:748 (June 1993), LR 25:2224 (November 1999).

Subchapter D. Grounds for Administrative Action

§5517. Causes for Administrative Action

A. The board may refuse to issue or renew, or may suspend, revoke or impose probationary conditions and restrictions on the license or temporary license of any registered respiratory therapist or certified respiratory therapist, if the licensee or applicant for license has been guilty of unprofessional conduct which has endangered or is likely to endanger the health, welfare, or safety of the public.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(B)(6) and R.S. 37:3351-3361.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 12:767 (November 1986), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 17:886 (September 1991), LR 25:2225 (November 1999).

§5519. Causes for Action; Definitions; Unprofessional Conduct

A. As used herein and in R.S. 37:3358, "unprofessional conduct" by a registered respiratory therapist or a certified respiratory therapist shall mean:

1. conviction of a crime or entry of a plea of guilty or nolo contendere to a criminal charge constituting a felony under the laws of the state of Louisiana, of the United States or of the state in which such conviction or plea was entered;

2. conviction of a crime or entry of a plea of guilty or nolo contendere to any criminal charge arising out of or in connection with the practice of respiratory care;

3. perjury, fraud, deceit, misrepresentation or concealment of material facts in obtaining a license to practice respiratory care;

4. providing false testimony before the board or providing false sworn information to the board;

5. habitual or recurring abuse of drugs, including alcohol, which affect the central nervous system and which are capable of inducing physiological or psychological dependence;

6. solicitation of patients or self-promotion through advertising or communication, public or private, which is fraudulent, false, deceptive or misleading;

7. making or submitting false, deceptive or unfounded claims, reports or opinions to any patient, insurance company or indemnity association, company, individual, or governmental authority for the purpose of obtaining anything of economic value;

8. cognitive or clinical incompetence;

9. continuing or recurring practice which fails to satisfy the prevailing and usually accepted standards of respiratory care practice in this state;

10. knowingly performing any act which in any way assists an unlicensed person to practice respiratory care, or having professional connection with or lending one's name to an illegal practitioner;

11. paying or giving anything of economic value to another person, firm or corporation to induce the referral of patients to the registered respiratory therapist or certified respiratory therapist;

12. interdiction by due process of law;

13. inability to practice respiratory care with reasonable competence, skill or safety to patients because of mental or physical illness, condition or deficiency, including but not limited to deterioration through the aging process and excessive use or abuse of drugs, including alcohol;

14. refusal to submit to examination and inquiry by an examining committee of physicians appointed by the board to inquire into the licensee's physical and/or mental fitness and ability to practice respiratory care with reasonable skill or safety to patients;

15. practicing or otherwise engaging in any conduct or functions beyond the scope of respiratory care as defined by the Act or these rules;

16. the refusal of the licensing authority of another state to issue or renew a license, permit, or certificate to practice respiratory care in that state or the revocation, suspension or other restriction imposed on a license, permit, or certificate issued by such licensing authority which prevents, restricts or conditions practice in that state, or the surrender of a license, permit or certificate issued by another state when criminal or administrative charges are pending or threatened against the holder of such license, permit or certificate;

17. violation of the code of ethics adopted and published by the American Association for Respiratory Care;

18. demonstrating a lack of "good moral character" as defined in §5503.A; or

19. violation of any rules and regulations of the board, or any provisions of the Act, as amended, R.S. 37:3351-3361.

B. Denial, refusal to renew, suspension, revocation, or imposition of probationary conditions upon a licensee may be ordered by the board in a decision made after a hearing in accordance with the Administrative Procedure Act and the applicable rules and regulations of the board. One year after the date of the revocation of a license, application may be made to the board for reinstatement. The board shall have discretion to accept or reject an application for reinstatement but shall hold a hearing to consider such reinstatement.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(B)(6) and R.S. 37:3351-3361.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 12:767 (November 1986), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 17:886 (September 1991), LR 25:2225 (November 1999).

Chapter 57. Athletic Trainers

Subchapter A. General Provisions

§5701. Scope of Chapter

A. The Rules of this Chapter govern the employment and practice of certified athletic trainers in the state of Louisiana.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3301-3312.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, LR 12:526 (August 1986).

§5703. General Definitions

A. As used in this Chapter, the following terms shall have the meanings specified.

Board the Louisiana State Board of Medical Examiners.

Certification the board's official recognition of a person's lawful authority to act and serve as an *athletic trainer* as such term is defined by the Law, R.S. 48:3302, and by §5705 hereof.

Certified Athletic Trainer a person possessing a current certificate, duly issued by the board, evidencing the board's certification of such person under the law.

Louisiana Athletic Trainers Law or *the Law* Acts 1985, Number 288, as amended, R.S. 48:3301-3312.

NATA the National Athletic Trainers Association, or its successor.

Physician a person holding a current unrestricted license to engage in the practice of medicine in the state of Louisiana, duly issued by the board.

B. Masculine terms wheresoever used in this Chapter shall also be deemed to include the feminine.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3301-3312.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, LR 12:526 (August 1986).

§5705. Special Definitions

A. The term *the activities of an athletic trainer* means and includes the practice of prevention, emergency management, and physical rehabilitation of injuries incurred by athletes at an educational institution, professional athletic organization, and by any athletes participating in athletic competition or events sponsored by those organizations or other board-sanctioned organizations, all under the direction and supervision of a physician.

B. The term *practice of prevention*, as used in §5705.A, means and includes:

1. establishing and implementing a program of physical conditioning for athletes in cooperation with physicians, supervisors, and coaches;

2. application of protective or injury-preventive devices such as taping, padding, bandaging, strapping, wrapping, or bracing;

3. selecting and fitting protective athletic equipment for individual athletes and monitoring of such equipment for safety, in cooperation with physicians, supervisors, and coaches; and

4. counseling and advising supervisors, coaches, and athletes on physical conditioning and training, such as diet, flexibility, rest, and reconditioning.

C. The term *emergency management* means the application and use of accepted first aid procedures, as established by the American Red Cross and the American Heart Association, or pursuant to written protocols for emergency established by a team or consultant physician to render conservative care to an injured athlete until such athlete may be attended by a physician.

D. The term *physical rehabilitation of injuries* means the care given to athletes following injury and during recovery, including reconditioning procedures; application of therapeutic devices and equipment; fitting of braces, guards, and other protective devices; and referral to physicians, auxiliary health services and institutions, all pursuant to and in accordance with preestablished methods of physical modality use and exercise as prescribed by a team or consultant physician.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3301-3312.
HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, LR 12:526 (August 1986).

Subchapter B. Prohibitions

§5709. Unauthorized Practices

A. No person shall hold himself out to the public, any public educational institution, any athletic organization, or any individual student, amateur, or professional athlete as a certified athletic trainer in the state of Louisiana, nor identify or designate himself as such, nor use in connection with his name the letters, "CAT" or "ATC," or any other words, letters, abbreviations, insignia, or signs tending to indicate or imply that the person is a certified athletic trainer, unless he is currently certified by the board as a certified athletic trainer.

B. No person shall undertake to perform or actually perform, for compensation or other remuneration, the activities of an athletic trainer, as defined in this Chapter (§5705) unless he is currently certified by the board as a certified athletic trainer, as evidenced by a certificate duly issued by the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3301-3312.
HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, LR 12:527 (August 1986).

§5711. Exemptions

A. The prohibitions of §5709.B of this Chapter shall not apply to:

1. a person who undertakes to perform or actually performs the activities of an athletic trainer at an educational institution which is not operated by the state of Louisiana, or a parish or municipal school board, district, or subdistrict;

2. an athletic coach assigned or employed by an educational institution or athletic organization, in the performance of his usual and customary duties as such;

3. a person who undertakes to perform or actually performs the activities of an athletic trainer in the employment of an educational institution or athletic organization domiciled in another state, while accompanying and attending athletes of an educational institution or athletic organization domiciled in another state during or in connection with an athletic contest conducted in Louisiana; or

4. a person acting under and within the scope of professional licensure or certification issued by an agency of the state of Louisiana.

B. The prohibitions of §5709.B shall not apply to any person who performs the functions of an athletic-trainer as a student-trainer, assistant-trainer, teacher-trainer, or any similar position under the direction and supervision of a certified athletic trainer.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3301-3312.
HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, LR 12:527 (August 1986).

§5713. Prohibitions: Certified Athletic Trainers

A. A certified athletic trainer shall not:

1. undertake to perform or actually perform any activities, preventive measures, emergency management, physical rehabilitation of injury, or any other functions, treatments, modalities, procedures, or regimes, except under the direction and supervision of a physician, employed or engaged as a team or consulting physician by the educational institution or athletic institution by which the certified athletic trainer is employed or engaged;

2. prescribe, dispense, or administer any controlled substances;

3. dispense or administer any medications for ingestion, subcutaneous, transdermal, intramuscular, or intravenous injection or topical application, except upon the prescription and direction, or pursuant to the written protocol of a physician; or

4. undertake to concurrently supervise more than three uncertified student, assistant, or teacher-trainers.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3301-3312.
HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, LR 12:527 (August 1986).

Subchapter C. Ethical Guidelines and Standards of Practice

§5715. Ethical Guidelines

A. A certified athletic trainer shall, in performance of the activities of an athletic trainer, observe and abide by the code of ethics of the National Association of Athletic Trainers.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3301-3312.
HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, LR 12:527 (August 1986).

§5717. Standards of Practice

A. A certified athletic trainer shall, in performance of the activities of an athletic trainer, observe and abide by the standards of practice announced and promulgated from time to time by the board pursuant to rules and regulations, advisory opinions, and interpretations and statements of position.

B. It shall be deemed a violation of minimum standards of practice applicable to certified athletic trainers for a certified athletic trainer to:

1. be convicted of or enter a plea of guilty or nolo contendere to a criminal charge constituting a felony under the laws of the United States or of any state;

2. to be convicted of or enter a plea of guilty or nolo contendere to a criminal charge arising out of or in connection with the performance of the activities of an athletic trainer;

3. fail to maintain any qualification requisite to initial certification under the law;

4. have his certification or licensure as an athletic trainer suspended, revoked, or placed on probation by any state or to have voluntarily surrendered any such certification or licensure while administrative proceedings were pending against such certification or licensure;

5. be incapable of performing the activities of an athletic trainer with reasonable skill and safety to athletes by virtue of physiological or mental condition, illness, deficit, deformity, or injury, or the abuse or excessive use of drugs, including alcohol;

6. give or suborn false testimony before the board; or

7. incompetency in performing the activities of an athletic trainer.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3301-3312.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, LR 12:527 (August 1986).

Subchapter D. Grounds for Administrative Action

§5719. Causes for Administrative Action

A. The board may refuse to issue certification to, or suspend, revoke, or impose probationary conditions and restrictions on the certification of an applicant for certification or a certified athletic trainer upon a finding of any of the cause provided by §3308.A of the Louisiana Athletic Trainers Law, as such causes are further defined in §5723 hereof.

B. The board may reinstate any certification suspended or revoked hereunder, or restore to unrestricted status any certification subjected to probationary conditions or restrictions by the board upon payment of the reinstatement fee and satisfaction of such terms and conditions as may be prescribed by the board; provided, however, that an application for reinstatement of certification revoked by the board shall not be made or considered by the board prior to the expiration of one year following the date on which the board's order of revocation became final.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3301-3312.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, LR 12:527 (August 1986).

§5723. Causes for Action; Definitions

A. As used in §3308.A of the Law, a person who has "secured the certificate by fraud or deceit" means and includes a person who:

1. makes any representation to the board, knowingly or unknowingly, which is in fact false or misleading as to a material fact or omits to state any fact or matter that is material to an application for certification under Chapter 31 of these Rules; or

2. makes any representation, or fails to make a representation, or engages in any act or omission which is false, deceptive, fraudulent, or misleading in achieving or obtaining any of the questions for certification required by Chapter 31 of these Rules.

B. As used in §5717.B of this Chapter, the term *convicted*, as applied to a certified athletic trainer or applicant for certification as an athletic trainer, means that a judgment has been entered against such person by a court of competent jurisdiction on the basis of a finding or verdict of guilt or a plea of guilty or nolo contendere. Such a judgment provides cause for administrative action by the board so long as it has not been reversed by an appellate court of competent jurisdiction and notwithstanding the fact that an appeal or other application for relief from such judgment is pending.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3301-3312.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, LR 12:527 (August 1986).

Chapter 59. Private Radiologic Technologists

Subchapter A. Practice Requirements and Prohibitions

§5901. Necessity of Certificate; Supervision Required

A. No person may perform or attempt to perform a diagnostic or therapeutic radiological examination or treatment or both in the private office of a physician or in a clinic in which a physician practices unless he has in his personal possession a certificate issued to him under Chapter 29 of these Rules or is otherwise exempted from the requirement of such certificate pursuant to §2905.B or C.

B. No person, not otherwise exempted under §2905.B of these Rules, may perform or attempt to perform a diagnostic or therapeutic radiological examination or treatment or both in the private office of a physician or in a clinic in which a physician practices except under the direct supervision of a physician.

AUTHORITY NOTE: Promulgated in accordance with R.S. 1292.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 13:577 (October 1987).

§5903. Physician's Responsibilities

A. A physician who employs a person to perform diagnostic or therapeutic examination or treatment or both in the private office of that physician or in a clinic in which that physician practices shall ensure that the person so employed has a certificate issued under Chapter 29 of these Rules in his personal possession and that the employed person performs such examinations or treatment only under the direct supervision of a physician.

B. Each physician who employs any person to perform diagnostic or therapeutic radiological examination or treatment or both in the private office of that physician or in a clinic in which that physician practices shall report to the State Board of Medical Examiners annually as a condition for issuance or renewal of that physician's licensure to practice medicine in the state of Louisiana the following information on each person so employed:

1. name of the employee;

2. address at which that employee performs diagnostic or therapeutic radiological examination or treatment or both;

3. initial date of employment of that person with that physician;

4. any exemption claimed for that person under Chapter 29; and

5. certification by the physician that the person employed is proficient in, and is competent to perform, radiological examination or treatment or both only under the direct supervision of a physician.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1292.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 13:577 (October 1987).

Chapter 65. Dispensation of Medications

Subchapter A. General Provisions

§6501. Scope of Chapter

A. The Rules of this Chapter govern the dispensation of drugs, chemicals, and medications by physicians. These Rules are not intended to alter or modify the effect or applicability of state and federal laws and regulations governing the acquisition, possession, maintenance, prescription, dispensation, or administration of, or accounting for, legally controlled substances and other drugs and medications, but are complimentary and supplementary to such laws and regulations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1261-1292 and R.S. 37:1204.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 13:570 (October 1987).

§6503. Definitions

A. As used in this Chapter, the following terms and phrases shall have the meanings specified.

Administer with respect to a medication provided or dispensed by a physician for use by a patient, the term *administered* means directly or through an agent to give, provide, or supply for immediate oral ingestion, insertion, or topical application by the patient, or to insert, apply topically, or inject intravenously, intramuscularly, subcutaneously, intrathecally, or extrathecally.

Board the Louisiana State Board of Medical Examiners.

Bona Fide Medication Sample a medication, other than a controlled substance, packaged by the original manufacturer thereof in such quantity as does not exceed a reasonable therapeutic dosage and provided at no cost to a physician for administration or dispensation to a patient at no cost to the patient.

Controlled Substance any medication or other substance which is designated as a controlled substance and regulated as such under Louisiana or federal law or regulations.

Dispense with respect to a drug, chemical, medication, or controlled substance, the term *dispense* means to give, provide, or supply for later oral ingestion, insertion, application, injection, or other use.

Drug synonymous with *medication*, as defined herein.

Medical Firm a partnership of physicians engaged in the practice of medicine in the state of Louisiana or a corporation lawfully organized, existing, and engaged in the practice of medicine in the state of Louisiana pursuant to the Professional Medical Corporations Act, as the same may be amended from time to time, as codified at R.S. 12:901-15.

Medical Practice Act or *the Act* may be amended from time to time, as codified at R.S. 37:1261-92.

Medication any chemical, potion, compound, mixture, suspension, solution, or other substance or material, natural or synthetic, recognized and listed in the official United States Pharmacopoeia, which is lawfully produced, manufactured, sold, or provided and intended and approved for medical, diagnostic, therapeutic, or preventative use in and by humans.

Physician a person lawfully entitled to engage in the practice of medicine in the state of Louisiana, as evidenced by a current license or permit duly issued by the board.

Registrant a physician who is registered with the board as a dispensing physician in accordance with Subchapter C of this Chapter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1261-1292, R.S. 37:1201.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 13:570 (October 1987), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 30:1193 (June 2004).

Subchapter B. Prohibitions and Sanctions

§6505. Prohibitions

A. No physicians shall dispense any medication, other than a bona fide medication sample, except in strict compliance with the Louisiana and federal law and regulations applicable thereto and with the rules of this Chapter.

B. On and after December 1, 1987, no physician shall dispense any medication, other than a bona fide medication sample, unless he is currently registered with the board as a dispensing physician, in accordance with Subchapter C of this Chapter, and the physician's dispensation of medications is within the scope of such registration.

C. No physician shall dispense any medication except in the usual and ordinary course of his medical practice for a legitimate medical purpose.

D. No physician shall dispense any medication upon the prescription of another practitioner.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1261-1292 and R.S. 37:1204.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 13:571 (October 1987).

§6507. Action against Medical License

A. Violation of the prohibitions set forth in §6505, or providing false or misleading statements in connection with any application required by this Subchapter, shall be deemed to constitute just cause for the suspension, revocation, refusal to issue, or the imposition of probationary or other restrictions on any license or permit to practice medicine in the state of Louisiana held or applied for by a physician culpable of such violation, or for other administrative action as the board may in its discretion determine to be necessary or appropriate, under R.S. 37:1285.A.(3), R.S.37:1285.A.(4), R.S. 37:1285.A.(6), and R.S. 1285.A.(30), respectively.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1261-1292, R.S. 37:1204.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 13:570 (October 1987), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 25:1248 (July 1999), LR 28:2352 (November 2002).

§6509. Action against Registration

A. For noncompliance with any of the provisions of this Chapter, the board may, in addition to or in lieu of administrative proceedings pursuant to the preceding paragraph, suspend, revoke, or cancel a physician's registration as a dispensing physician or impose such restrictions or conditions on the physician's authority to dispense medications as the board may deem necessary or appropriate.

B. The board may suspend, revoke, or cancel a physician's registration as a dispensing physician or impose such restrictions or conditions on the physician's authority to dispense medications as the board may deem necessary or appropriate, upon a finding of the existence of any of the causes enumerated by R.S. 37:1285.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1261-1292 and R.S. 37:1204.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 13:571 (October 1987).

§6511. Reinstatement of Registration

A. The board may reinstate any registration which has been suspended, revoked, canceled, conditioned, or restricted by the board; provided, however, that no registration which has been revoked or canceled shall be reinstated by the board within five years of the effective date of such revocation or cancellation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1261-1292 and R.S. 37:1204.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 13:571 (October 1987).

Subchapter C. Registration

§6513. Eligibility for Registration as a Dispensing Physician

A. To be eligible for registration as a dispensing physician, a physician shall, as of the date of the application:

1. possess a current, unrestricted license to practice medicine duly issued by the board;

2. have been in the active practice of medicine for not less than three years following the date on which the physician was awarded a doctor of medicine or doctor of osteopathy degree;

3. not currently be enrolled in a medical residency or other post graduate medical training program; and

4. possess a current, unrestricted license to prescribe, dispense, and administer controlled substances duly issued by the Office of Narcotics and Dangerous Drugs, Department of Health and Human Resources, state of Louisiana, and be currently registered to prescribe, dispense, and administer controlled substances, without restriction, with the Drug Enforcement Administration, United States Department of Justice.

B. A physician shall be deemed ineligible for registration as a dispensing physician who:

1. has been convicted, whether upon verdict, judgment, or plea of guilty or nolo contendere, of any crime constituting a felony under the laws of the United States or of any state, or who has entered into a diversion program, a deferred prosecution or other agreement in lieu of the institution of criminal charges or prosecution for such crime;

2. has been convicted, whether upon verdict, judgment, or plea of guilty or nolo contendere, of any crime an element of which is the manufacture, production, possession, use, distribution, sale or exchange of any controlled substance or who has entered into a diversion program, a deferred prosecution or other agreement in lieu of the institution of criminal charges or prosecution for such crime;

3. has, within the five years preceding application for registration, abused or excessively used any medication, alcohol, or other substance which can produce physiological or psychological dependence or tolerance or which acts as a central nervous system stimulant or depressant;

4. has voluntarily surrendered or had suspended, revoked or restricted, his narcotics controlled substance license, permit or registration (state or federal);

5. has had his professional license suspended, revoked or placed on probation or restriction in any manner by the board or by any licensing authority, or who has agreed not to seek re-licensure, voluntarily surrendered, or entered into an agreement with the board or with any licensing authority in lieu of the institution of disciplinary charges or action against such license;

6. has had an application for professional examination or license rejected or denied;

7. has been denied, had suspended, revoked, restricted, or relinquished, staff or clinical privileges at any hospital or other health care institution while under investigation for, or as a result of, the physician's competency or conduct;

8. has been, or is currently in the process of being, denied, terminated, suspended, refused, limited, placed on probation or under other disciplinary action with respect to his participation in any private, state, or federal health insurance program; or

9. has had any court determine that he is currently in violation of a court's judgment or order for the support of dependent children.

C. The board may deny registration to an otherwise eligible physician for any of the causes enumerated by R.S. 37:1285 or any other violation of the provisions of the Medical Practice Act.

D. The burden of satisfying the board as to the qualifications and eligibility of the physician-applicant for registration as a dispensing physician shall be upon the applicant. An applicant shall not be deemed to possess such qualifications unless the applicant demonstrates and evidences such qualifications in the manner prescribed by, and to the satisfaction of, the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1261-1292, R.S. 37:1201.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 13:570 (October 1987), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 25:1249 (July 1999), LR 28:2352 (November 2002).

§6515. Registration Procedure

A. Application for registration as a dispensing physician shall be made upon forms supplied by the board.

B. Application forms and instructions pertaining thereto may be obtained upon written request directed to the office of the board, Suite 100, 830 Union Street, New Orleans, LA 70112. Application forms will be mailed by the board within 30 days of the board's receipt of request therefor.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1261-1292 and R.S. 37:1204.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 13:571 (October 1987).

§6517. Original Application

A. An application for registration as a dispensing physician under this Chapter shall include:

1. the applicant's full name, home address, and the municipal and post office addresses of each office or other location at which the applicant practices medicine in the state of Louisiana;

2. the name, municipal and post office address of the medical firm or firms, if any, with which the applicant is associated, and the full names of all physician partners or employees of such firm or firms;

3. the applicant's Louisiana controlled dangerous substance license number and the applicant's United States Drug Enforcement Agency (DEA) controlled substance registration number;

4. the municipal and post office addresses and telephone number of each location at which the applicant dispenses or proposes to dispense medications;

5. a designation of the schedules, classes, types, or specific medications which the applicant dispenses or proposes to dispense;

6. certification by affidavit or other proof, documented in a form satisfactory to the board as specified by the secretary, that the applicant possess the qualifications for registration set forth by this Chapter; and

7. such other information and documentation as the board may require to evidence qualification for registration as a dispensing physician.

B. The board may refuse to consider any application which is not complete in every detail and may, in its discretion require a more detailed or complete response to any request for information set forth in the application form as a condition to consideration of an application.

C. Each original or initial application for registration as a dispensing physician shall be accompanied by a fee of $75.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1261-1292 and R.S. 37:1204.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 13:571 (October 1987).

§6519. Effect of Application

A. The submission of an application for registration as a dispensing physician shall have the same effect as the submission of an application for medical licensure, as provided in Board Rule 365 (to be codified at §1145 of these rules).

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1261-1292 and R.S. 37:1204.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 13:572 (October 1987).

§6521. Certification of Registration

A. If the qualifications, requirements, and procedures prescribed or incorporated by §§6513 to 6517 are met to the satisfaction of the board, the board shall issue to the applicant certification of registration as a dispensing physician bearing the Dispensing Physician Registration Number (DPRN). The original of such certificate, or a duplicate thereof certified by the board, shall be maintained at each location at which the registrant dispenses medications.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1261-1292 and R.S. 37:1204.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 13:572 (October 1987).

§6523. Expiration of Registration

A. Registration with the board as a dispensing physician under this Chapter shall expire, and thereby become null, void, and to no effect, on the last day of the year for which such registration was made and certified.

B. Notwithstanding the provisions of §6523.A, every registration issued by the board under this Chapter, to be effective on or after January 1, 1999, and each year thereafter, shall expire, and thereby become null, void and to no effect the following year on the first day of the month in which the registrant was born.

C. The timely submission of an application for renewal of registration as a dispensing physician, as provided by §6525 of this Chapter, shall operate to continue the expiring registration in effect pending certification of renewal registration or other final action by the board on such application for renewal.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1261-1292 and R.S. 37:1204.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 13:572 (October 1987), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 24:1501 (August 1998).

§6525. Renewal of Registration

A. Registration as a dispensing physician under this Chapter shall be renewed annually on or before its date of expiration by submitting to the board an application for renewal, upon forms supplied by the board, together with a registration renewal fee of $50.

B. Notwithstanding the provisions of §6525.A, every registration issued by the board under this Chapter to be effective on or after January 1, 1999, shall be renewed in the year 2000, and each year thereafter, on or before the first day of the month in which the registrant was born. Renewal fees shall be prorated if the registration is to be effective for more than one year.

C. An application for registration renewal form shall be mailed by the board to each registrant at least 30 days prior to the expiration of the registration each year. Such form shall be mailed to the most recent address of each registrant as reflected in the official records of the board.

D. Registration as a dispensing physician which has expired by virtue of nonrenewal shall not be reinstated by the board except upon the applicant's satisfaction of the qualifications, requirements and procedures prescribed by this Chapter for original application for registration.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1261-1292 and R.S. 37:1204.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 13:572 (October 1987), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 24:1501 (August 1998).

Subchapter D. Recordkeeping

§6527. Purchases, Acquisitions

A. Each registrant shall maintain current, accurate, complete, and readily retrievable records of all transactions by which the registrant orders, purchases, acquires, receives, or otherwise comes into possession or custody of medications, other than bona fide medication samples, for dispensation or administration to patients.

B. The records required to be maintained by this Section shall include:

1. a record of each order, purchase, or other acquisition made or placed by the registrant for medications, including:

a. a photocopy, counterfoil carbon copy, or other duplicate of each original order or purchase form;

b. the full name and address of the person, firm, or entity from whom the medications were ordered, purchased, or otherwise acquired;

c. the date of the order, purchase, or other acquisition; and

d. the generic chemical or trade name, quantity, or amount, and dosage strength of each medication ordered, purchased, or otherwise acquired; and

2. a record of the delivery or receipt by the registrant of medications ordered, purchased, or otherwise acquired, including:

a. the original, photocopy, counterfoil carbon copy, or other duplicate of each receiving invoice for medications;

b. the full name and address of the person, firm, or entity from whom the medications were delivered or received;

c. the date of the delivery or receipt; and

d. the generic chemical or trade name, quantity or amount, and dosage strength of each medication delivered or received; and

e. the name of the person taking physical delivery or receipt of such medications on behalf of the registrant.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1261-1292 and R.S. 37:1204.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 13:572 (October 1987).

§6529. Medication Inventories

A. Each registrant shall maintain current, accurate, and complete records, in writing or electronically recorded so as to be readily convertible into writing, of the generic chemical or trade name, and exact quantity or amount and location of all medications in the registrant's possession or custody, which records shall, not less frequently than monthly, be updated to reflect and account for all purchases, acquisitions, dispensations, transfers, losses of, or other transactions involving the medications in the registrant's possession.

B. Not less frequently than quarterly during each calendar year, each registrant shall conduct or cause to be conducted a physical inventory of all medications in the possession or custody of the registrant for each location at which the registrant maintains or stores medications and shall conduct reasonable inquiry to determine and to record the nature and cause of any discrepancy between such physical inventory and the kind and amount of medications evidenced by the records required under the preceding paragraph of this Section. A record of each such quarterly physical inventory and reconciliation shall be made and retained by the registrant.

C. A registrant shall conduct or cause to be conducted a physical inventory of all medications in the possession or custody of the registrant for each location at which the registrant maintains or stores medication and shall conduct reasonable inquiry to determine and to record the nature and cause of any discrepancy between such physical inventory and the kind and amount of medications evidenced by the records required under §6529.A, within 20 days of the date on which:

1. a registrant's license to practice medicine or registration as a dispensing physician is suspended, revoked, canceled, or expires by virtue of nonrenewal;

2. the registrant terminates, concludes, sells, assigns, or retires from his practice of medicine; or

3. medications in the registrant's possession are seized under executory process, sequestration, attachment, bankruptcy, or by authority of any federal, state, or local regulatory or law enforcement agency.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1261-1292 and R.S. 37:1204.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 13:572 (October 1987).

§6531. Dispensation Records

A. Each registrant shall, concurrently with the dispensation or administration of any medication, record the generic chemical or trade name of any medication dispensed or administered, other than bona fide medication samples, the quantity or amount and dosage strength of such medication, the date on which such medication was dispensed or administered, and the full name and address of the patient to whom or for whom such medication was dispensed or administered.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1261-1292 and R.S. 37:1204.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 13:573 (October 1987).

§6533. Other Transaction Records

A. A registrant shall, concurrently with the transfer or delivery of any medication in his possession to any other location or with the sale, delivery, return, or other transfer of any medication to any other registrant, physician, person, firm, or entity, other than by dispensation to a patient, record the generic chemical or trade name of any medication so sold, delivered, returned, or transferred, the quantity or amount and dosage strength of such medication, the date on which such medication was sold, delivered, returned, or transferred, and the name, address, and DEA registration number of the person, firm, or entity to whom such medication was sold, delivered, returned, or otherwise transferred.

B. Each registrant shall, with respect to any medication intentionally disposed of or destroyed, concurrently with such destruction or disposal, record the generic chemical or trade name, quantity or amount, and dosage strength of such medication, the date of its destruction or disposal and the reasons for or circumstances surrounding its destruction or disposal.

C. A registrant shall record the generic chemical and trade name, quantity and amount, and dosage strength of any medication lost, stolen, accidentally destroyed, or otherwise unaccounted for, together with the date of and reasons for or circumstances surrounding such loss, theft, accidental destruction, or other such disposition.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1261-1292 and R.S. 37:1204.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 13:573 (October 1987).

§6535. Separate Maintenance Records for Schedule II Substances

A. All records required to be maintained by this Subchapter relating to medications designated as Schedule II controlled substances by state or federal law or regulations shall be maintained separately from all such records relating to other medications.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1261-1292 and R.S. 37:1204.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 13:573 (October 1987).

§6537. Computerized Records

A. Any record required by this Subchapter, other than original or duplicate order and receiving invoice forms and prescriptions, may be recorded and stored on a computerized, electronic data processing system provided that such system is designed so as to ensure that the records and information so recorded are accurate, complete, and readily retrievable and convertible to hard copy printout and

provided further that such system satisfies standards of security prescribed by §§6549 to 6551.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1261-1292 and R.S. 37:1204.
HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 13:573 (October 1987).

§6539. Retention of Records

A. All records and documents required by this Subchapter shall be securely maintained, in accordance with the standards of security prescribed by §6547, for a period of not less than five years from the date on which the subject data is first recorded.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1261-1292 and R.S. 37:1204.
HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 13:573 (October 1987).

§6541. Board Access to Records

A. The records required by this Subchapter shall be available for examination, inspection, copying, and verification of accuracy, currency, and completeness by the board or its designated employee or agent at any reasonable time, but without the necessity of prior notice by the board. The failure or refusal of a registrant to make such records available to the board pursuant to this Section shall constitute a violation of these rules subjecting the registrant to suspension or revocation of medical licensure or registration as a dispensing physician.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1261-1292 and R.S. 37:1204.
HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 13:573 (October 1987).

Subchapter E. Labeling and Packaging

§6543. Labeling

A. No registrant shall dispense any medication, other than a bona fide medication sample, unless the bottle, package, or other container for such medication bear a securely-affixed indelible, legible, typewritten, or printed label including:

1. the name and address of the registrant;

2. the name of the patient to whom or for whom dispensed;

3. the generic chemical or trade name, quantity or amount, dosage form, and strength of the medication dispensed;

4. the date of dispensation; and

5. appropriate directions for self-administration, ingestion, insertion, application, or injection by the patient.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1261-1292 and R.S. 37:1204.
HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 13:573 (October 1987).

§6545. Packaging for Dispensation

A. Medications shall be dispensed in such bottles, containers, or other packages as may be reasonably necessary or appropriate to safeguard the dispensed medication against contamination, adulteration or deterioration, or spillage or other inadvertent loss.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1261-1292 and R.S. 37:1204.
HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 13:573 (October 1987).

Subchapter F. Security

§6547. Storage of Medications

A. All medications in the possession of a registrant shall be physically stored and maintained in such location and in such manner as to reasonably secure all such medications against contamination, adulteration, deterioration, loss, accidental destruction, theft, and access or use by unauthorized persons.

B. Medications which are Schedule II controlled substances shall, in addition, be stored and maintained in a metal cabinet, box, safe, vault, or other container of suitable strength and in such location as to safeguard such medication against loss or destruction by fire, flood, or other accidental causes. Such repository shall further be equipped with a secure lock so as to prevent theft of or unauthorized access to or use of such medications.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1261-1292 and R.S. 37:1204.
HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 13:573 (October 1987).

§6549. Security for Records

A. The records and documents required under Subchapter D of these Rules shall be kept, stored, and maintained in such location and manner as to reasonably secure such records and documents against lost, destruction, theft, or access by unauthorized persons.

B. All records and documents required under Subchapter D of these rules relating to Schedule II controlled substances shall be kept, stored, and maintained in such manner and in such location as is specified by §6547 for the storage of Schedule II controlled substances.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1261-1292 and R.S. 37:1204.
HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 13:573 (October 1987).

§6551. Maintenance of Computerized Records

A. Records, information, and data recorded and stored on computerized, electronic data processing equipment, as permitted by this Chapter, shall be periodically, and not less

frequently than monthly, duplicated on electronic/magnetic media or converted to hard copy printout, and such duplicate media or printout shall be stored and maintained separately from the central or original data memory in accordance with the standards of security prescribed by §6549.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1261-1292 and R.S. 37:1204.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 13:573 (October 1987).

Subchapter G. Reporting

§6553. Theft or Unexplained Loss of Controlled Substances

A. Any theft or unexplained loss of controlled substances in the possession of a registrant shall be reported by the registrant to the board, in writing, within 10 days of the date of the registrant's discovery of such theft or loss, but in no event later than 10 days following the completion of the quarterly physical inventory next following such theft or loss. Such written report shall state the date or estimated date of such theft or loss, the generic chemical or trade name, amount or quantity, and dosage form and strength of any medications stolen or lost and a detailed description of the circumstances surrounding the theft or loss.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1261-1292 and R.S. 37:1204.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 13:574 (October 1987).

§6555. Termination of Practice or Dispensation

A. Not later than 10 days following the date on which a registrant terminates, concludes, sells, assigns, or retires from his practice of medicine or ceases dispensation and administration of medications, the registrant shall report the same to the board in writing. Upon completion of the physical inventory and reconciliation required in such event by §6529 hereof, the registrant shall deliver to the board a copy of such physical inventory record and reconciliation, together with his certificate of registration as a dispensing physician.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1261-1292 and R.S. 37:1204.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 13:574 (October 1987).

§6557. Diversion of Medications

A. A registrant shall immediately report to the board, in writing, any known or reasonably suspected instance of diversion of medications to unauthorized use or possession by any patient or any other person.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1261-1292 and R.S. 37:1204.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 13:574 (October 1987).

§6559. Other Reporting Requirements Unaffected

A. The reporting requirements imposed by this Subchapter do not relieve a registrant of any other reporting requirements imposed by existing state or federal laws or regulations.

B. Any report required by this Subchapter which is also required to be made in substantially the same form and content to any other regulatory or law enforcement agency by state or federal law or regulations may be made by submitting to the board, within the time prescribed by this Subchapter, a photocopy or other duplicate of the reporting form submitted or to be submitted to any such state or federal agency.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1261-1292 and R.S. 37:1204.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 13:574 (October 1987).

Subchapter H. Registrant Responsibilities

§6561. Personal Responsibility

A. A registrant is personally responsible for knowledge of and compliance with the provisions, requirements, and procedures set forth in this Chapter and with knowledge of and compliance with all other federal, state, and local laws and regulations applicable to the purchase, acquisition, possession, storage, maintenance, and dispensation of and recordkeeping and reporting for medication.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1261-1292 and R.S. 37:1204.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 13:574 (October 1987).

Chapter 67. Preventing Transmission of Hepatitis B Virus (HBV) and Human Immunodeficiency Virus (HIV) during Exposure-Prone Invasive Procedures

§6701. Scope of Chapter

A. As authorized and mandated by R.S. 37:1747, the rules of this Chapter prescribe practice and reporting requirements for physicians, podiatrists, physician's assistants, respiratory therapists, and other board-licensed or certified practitioners to protect the public from the risk of the transmission of Hepatitis B Virus (HBV) and Human Immunodeficiency Virus (HIV).

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1746-1747 and R.S. 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 18:1123 (October 1992).

§6703. Definitions

A. As used in this Chapter, the following terms shall have the meanings specified.

Board the Louisiana State Board of Medical Examiners.

Body Fluids amniotic, pericardial, peritoneal, pleural, synovial, and cerebrospinal fluids, semen, vaginal secretions, and other body fluids, secretions, and excretions containing visible blood.

Exposure-Prone Procedure an invasive procedure in which there is an increased risk of percutaneous injury to the practitioner by virtue of digital palpation of a needle tip or other sharp instrument in a body cavity or the simultaneous presence of the practitioner's fingers and a needle or other sharp instrument or object in a poorly visualized or highly confined anatomic site, or other invasive procedure in which there is a significant risk of contact between the blood or body fluids of the practitioner and the blood or body fluids of the patient. All invasive procedures are not considered exposure-prone; an invasive procedure (defined below) is considered an exposure-prone procedure only when it is a type of invasive procedure described by this definition.

Function Ancillary to an Invasive Procedure the preparation, processing, or handling of blood, fluids, tissues, or instruments which may be introduced into or come into contact with any blood, body fluids, cavity, internal organ, subcutaneous tissue, mucous membrane, or percutaneous wound of the human body in connection with the performance of an invasive procedure.

HBV the hepatitis B virus.

HBsAg Seropositive with respect to a practitioner, that a test of the practitioner's blood under the criteria of the Federal Centers for Disease Control or of the Association of State and Territorial Public Health Laboratory Directors has confirmed the presence of hepatitis B surface antigens and that no subsequent test has confirmed that hepatitis B surface antigens are no longer present.

HIV the human immunodeficiency virus, whether HIV-1 or HIV-2.

HIV Seropositive with respect to a practitioner, that a test under the criteria of the Federal Centers for Disease Control or of the Association of State and Territorial Public Health Laboratory Directors has confirmed the presence of HIV antibodies.

Invasive Procedure any surgical or other diagnostic or therapeutic procedure involving manual or instrumental contact with or entry into any blood, body fluids, cavity, internal organ, subcutaneous tissue, mucous membrane, or percutaneous wound of the human body.

Practitioner a physician, podiatrist, physician's assistant, respiratory therapist, or other health care provider licensed or certified by the board and authorized by applicable laws and regulations to perform or participate in invasive procedures or functions ancillary to invasive procedures.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1746-1747 and R.S. 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 18:1123 (October 1992).

§6705. Use of Infection Control Precautions

A. General Requirements. A practitioner who performs or participates in an invasive procedure or performs a function ancillary to an invasive procedure shall, in performance of or participation in any such procedure or function, be familiar with, observe and rigorously adhere to both general infection control practices and universal blood and body-fluid precautions as then recommended by the Federal Centers for Disease Control to minimize the risk of the transmission of HBV or HIV from a practitioner to a patient, from a patient to a practitioner, or from a patient to a patient.

B. Universal Blood and Body-Fluid Precautions. For purposes of this Section, adherence to universal blood and body-fluid precautions requires observance of the following minimum standards.

1. Protective Barriers. A practitioner shall routinely use appropriate barrier precautions to prevent skin and mucous-membrane contact with blood and other body fluids of all patients. Gloves and surgical masks shall be worn and shall be changed after contact with each patient. Protective eyewear or face shields and gowns or aprons made of materials that provide an effective barrier shall be worn during procedures that commonly result in the generation of droplets, splashing of blood or body fluids, or the generation of bone chips. A practitioner who performs, participates in, or assists in a vaginal or caesarean delivery shall wear gloves and gowns when handling the placenta or the infant until blood and amniotic fluid have been removed from the infant's skin and shall wear gloves during post-delivery care of the umbilical cord. If, during any invasive procedure, a glove is torn or punctured, the glove should be removed and a new glove used as promptly as patient safety permits.

2. Hand Washing. Hands and other skin surfaces shall be washed immediately and thoroughly if contaminated with blood or other body fluids. Hands shall be washed immediately after gloves are removed.

3. Percutaneous Injury Precautions. A practitioner shall take appropriate precautions to prevent injuries caused by needles, scalpels, and other sharp instruments or devices during procedures; when cleaning used instruments; during disposal of used needles; and when handling sharp instruments after procedures. If a needlestick injury occurs, the needle or instrument involved in the incident should be removed from the sterile field. To prevent needlestick injuries, needles should not be recapped, purposely bent, or broken by hand, removed from disposable syringes, or otherwise manipulated by hand. After they are used, disposable syringes and needles, scalpel blades, and other sharp items should be placed for disposal in puncture-resistant containers located as close as practical to the use area. Large-bore reusable needles should be placed in puncture-resistant containers for transport to the reprocessing area.

4. Resuscitation Devices. To minimize the need for emergency mouth-to-mouth resuscitation, a practitioner shall ensure that mouthpieces, resuscitation bags, or other ventilation devices are available for use in areas in which the need for resuscitation is predictable.

5. Sterilization and Disinfection. Instruments or devices that enter sterile tissue or the vascular system of any patient or through which blood flows should be sterilized before reuse. Devices or items that contact intact mucous membranes should be sterilized or receive high-level disinfection.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1746-1747 and R.S. 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 18:1124 (October 1992).

§6707. Prohibitions and Restrictions

A. Except as may be permitted pursuant to §6709 of this Chapter, a practitioner who is HBsAg seropositive or HIV seropositive, or who otherwise knows or should know that he or she carries and is capable of transmitting HBV or HIV, shall not thereafter perform or participate directly in an exposure-prone procedure.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1746-1747 and R.S. 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 18:1124 (October 1992).

§6709. Exception; Informed Consent of Patient

A. Conditions. Notwithstanding the prohibition of §6707 of this Chapter, an HBsAg or HIV seropositive practitioner may nonetheless perform or participate in an exposure-prone procedure with respect to a patient when each of the following four conditions is met.

1. The practitioner has affirmatively advised the patient, or the patient's lawfully authorized representative, that the practitioner has been diagnosed as HBsAg seropositive and/or HIV seropositive, as the case may be.

2. The patient, or the patient's lawfully authorized representative, has been advised of the risk of the practitioner's transmission of HBV and/or HIV to the patient during an exposure-prone procedure. The practitioner, if a physician or podiatrist, shall personally communicate such information to the patient or patient's representative. If the practitioner is other than a physician or podiatrist, such information shall also be communicated to the patient's physician.

3. The patient, or the patient's lawfully authorized representative, has subscribed a written instrument setting forth:

a. identification of the exposure-prone procedure to be performed by the practitioner with respect to the patient;

b. an acknowledgment that the advice required by §6709.A.1 and 2 have been given to and understood by the patient or the patient's representative; and

c. the consent of the patient, or the patient's lawfully authorized representative to the performance of or participation in the designated procedure by the practitioner.

4. The practitioner's HBsAg and/or HIV seropositivity has been affirmatively disclosed to each practitioner or other health care personnel who participates or assists in the exposure-prone procedure.

B. Revocation of Consent. Consent given pursuant to §6709.A may be revoked by a patient, or a patient's lawfully authorized representative, at any time prior to performance of the subject procedure by any verbal or written communication to the practitioner expressing an intent to revoke, rescind, or withdraw such consent.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1746-1747 and R.S. 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 18:1125 (October 1992).

§6711. Self-Reporting

A. Applicability. Any practitioner who in the course of practice may at any time undertake to perform or participate in an exposure-prone procedure and who is or becomes HBsAg seropositive or HIV seropositive shall give notice of such seropositivity to the board in accordance with the provisions of this Section.

B. Procedure. On or before the applicable initial request deadline specified by §6711.C, a practitioner required by §6711.A to report his or her HBsAg or HIV seropositivity to the board shall request a self-reporting form from the board's physician medical consultant, by mail directed to the confidential attention of the medical consultant or by personal telephone communication with the medical consultant at the board's offices. In making such request, a requesting practitioner shall advise the medical consultant of the address to which the self-reporting form should be mailed or delivered. Upon receipt of any such request, the medical consultant will promptly mail or deliver a board-approved self-reporting form to the requesting practitioner, accompanied by an addressed, postage-prepaid envelope directed to the confidential attention of the medical consultant. Within 10 days of receipt of such form the requesting practitioner shall complete, subscribe, and cause such self-reporting form to be delivered or mailed to the medical consultant.

C. Initial Request Deadlines. The initial request deadline for a practitioner:

1. who is HBsAg or HIV seropositive on or prior to the effective date of this Chapter, or who becomes HBsAg or HIV seropositive within 60 days from the effective date of this Chapter, shall be 90 days from the effective date of this Chapter;

2. who becomes HBsAg or HIV seropositive more than 60 days from the effective date of this Chapter shall be 30 days from the date on which the practitioner becomes seropositive; and

3. who is HBsAg or HIV seropositive on the date on which any license, permit, or certification is issued by the board to the practitioner shall be 10 days from such date.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1746-1747 and R.S. 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 18:1125 (October 1992).

§6713. Confidentiality of Reported Information

A. General Confidentiality. Reports and information furnished to the board pursuant to §6711 of this Chapter and records of the board relative to such information shall not be deemed to constitute public records, but shall be deemed and maintained by the board as confidential and privileged and shall not be subject to disclosure by means of subpoena in any judicial, administrative, or investigative proceeding; providing that such reports, information, and records may be disclosed by the board as necessary for the board to investigate or prosecute alleged violations of this Chapter.

B. Confidentiality of Identity of Seropositive Practitioners. The identity of practitioners who have reported their status as carriers of HBV or HIV to the board's medical consultant pursuant to §6711 hereof shall be maintained in confidence by the medical consultants and shall not be disclosed to any member, employee, agent, attorney, or representative of the board nor to any other person, firm, organization, or entity, governmental or private, except as may be necessary in the investigation or prosecution of suspected violations of this Chapter.

C. Disclosure of Statistical Data. Provided that the identity or self-reporting practitioners is not disclosed, either directly or indirectly, the provisions of this Section shall not be deemed to prevent disclosure by the medical consultant or the board, to governmental public health agencies with a legitimate need therefor, of statistical data derived from such reports, including, without limitation, the number and licensure class of practitioners having reported themselves as HBsAg and/or HIV seropositive and their geographical distribution.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1746-1747 and R.S. 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 18:1125 (October 1992).

§6715. Interpretation

A. Nothing in this Chapter shall be construed to require the mandatory testing of any practitioner for HBsAg or HIV seropositivity.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1746-1747 and R.S. 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 18:1126 (October 1992).

Chapter 69. Prescription, Dispensation, and Administration of Medications

Subchapter A. Medications Used in the Treatment of Obesity

§6901. Scope of Subchapter

A. The rules of this Subchapter govern physician prescription, dispensation, administration, or other use of medications for weight control or weight reduction in the medical treatment of obesity.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(A)(1), R.S. 37:1270(B)(6), and R.S. 37:1285(B).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 18:744 (July 1992).

§6903. Definitions

A. As used in this Subchapter, the following terms shall have the meanings specified.

Anorectic a drug, medication, or substance used or intended for use as an appetite suppressant.

Schedule II Controlled Substance any substance so classified under and pursuant to regulations of the Drug Enforcement Administration (DEA), U.S. Department of Justice, 21 CFR §1308.12, or any substance which may hereafter be so classified by amendment or supplementation of such regulation.

Schedule III Anorectic benzphetamine, phendimetrazine, and any other substance now or hereafter classified as a Schedule III controlled substance under and pursuant to Federal DEA regulations, 21 CFR §1308.13, and which is indicated for use in the treatment of exogenous obesity by express approval of the U.S. Food and Drug Administration (FDA).

Schedule IV Anorectic fenfluramine, dexfenfluramine, phentermine, diethylpropion, mazindol, and any other substance now or hereafter classified as a Schedule IV controlled substance under and pursuant to federal DEA regulations, 21 CFR §1308.14 and which is indicated for use in the treatment of exogenous obesity by express approval of the FDA.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(A)(1), R.S. 37:1270(B)(6), and R.S. 37:1285(B).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 18:744 (July 1992), amended LR 23:1146 (September 1997).

§6905. Prohibitions

A. Absolute Prohibitions. A physician shall not prescribe, dispense, administer, supply, sell, give, or otherwise use to or for any person for the purpose of weight control or weight reduction in the treatment of obesity any amphetamine,

dextroamphetamine, methamphetamine, or phenmetrazine drug or compound; any Schedule II controlled substance; human chorionic gonadotropin (HCG); thyroid hormones; diuretic medications; or any drug, medication, compound, or substance which is not indicated for use in the treatment of exogenous obesity by express approval of the U.S. Food and Drug Administration (FDA).

B. Schedule III-IV Anorectics. A physician shall not prescribe, dispense, or administer Schedule III or Schedule IV anorectics for the purpose of weight reduction or control in the treatment of obesity other than in strict conformity with each of the conditions and limitations prescribed by §6907 of this Subchapter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(A)(1), R.S. 37:1270(B)(6), and R.S. 37:1285(B).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 18:744 (July 1992).

§6907. Use of Schedule III-IV Anorectics; Conditions; Limitations

A. General Conditions. A physician shall not prescribe, dispense, or administer a Schedule III or Schedule IV anorectic for the purpose of weight reduction or control in the treatment of obesity, except as an adjunct to a therapeutic regimen of weight reduction based on prescribed sound nutrition, caloric restriction, exercise, and behavior modification and otherwise in accordance with the FDA-approved indications for the medication and contraindications for unapproved combinations of anorectic agents. Schedule III-IV anorectics may be prescribed, dispensed, or administered only to an adult patient who is obese under recognized generally accepted criteria for determining obesity, whose obesity is exogenous and not primarily metabolic, who is not pregnant, who does not suffer from or have any disease or condition constituting a recognized contraindication for use of the substance, and who otherwise satisfies the conditions requisite to treatment with anorectics as prescribed by this Section.

B. Requisite Prior Conditions. Before initiating treatment utilizing a Schedule III or IV anorectic with respect to any patient, a physician shall:

1. obtain a thorough prior history, including the patient's weight loss/gain history and prior efforts at weight reduction;

2. perform a thorough and complete physical examination;

3. determine that the patient is a proper candidate for weight reduction treatment and that the patient's obesity is not primarily metabolic;

4. rule out the presence of conditions recognized as contraindicating the use of anorectic medications, including, without limitation, pregnancy, hypertension, and hypersensitivity or idiosyncrasy to anorectics;

5. determine whether the patient has a history of or any tendency or propensity toward abuse of drugs, including alcohol;

6. determine that the patient has made a substantial good-faith effort at weight reduction under a *bona fide* program not utilizing anorectics;

7. take reasonable measures to ensure that the patient has not previously, in the course of treatment by one or more other practitioners, or otherwise, obtained and used anorectics in excess of the quantitative and durational limitations on the use of anorectics prescribed by §6907.E; and

8. provide the patient with a carefully prescribed diet, together with counseling on exercise and, as appropriate, other supportive or behavioral therapy.

C. Initiation of Anorectic Use. Upon completion and satisfaction of the conditions prescribed by §6907.A and B and upon the physician's judgment that the prescription, dispensation, or administration of an anorectic medication is medically warranted, the physician shall initiate anorectic treatment with the lowest dosage expected to be effective, as indicated by the manufacturer's FDA-approved dosage recommendation, employing a Schedule IV anorectic in preference to a Schedule III anorectic and refraining from use of Schedule III anorectics until and unless the anorectic initially used proves ineffective.

D. Continued Use of Anorectics. During the continued use of anorectics as permitted in this Section, and subject to the limitations prescribed in §6907.E, the physician shall monitor the patient's progress closely and frequently, shall re-examine the patient not less frequently than monthly during such continued use and shall continue use of anorectics only if, upon each such re-examination, the patient demonstrates continued clinically significant weight loss since the prior examination.

E. Limitations on Use. A physician shall not prescribe or dispense Schedule III or IV anorectics to any patient:

1. in dosage greater than the maximum dosage indicated by the anorectic manufacturer's FDA-approved dosage recommendation;

2. in number or dosage units greater than an amount sufficient for use of the anorectic for a period of 30 days; or

3. for an aggregate period in excess of 12 weeks during any 12-month period; provided, however, that this limitation shall not be applicable with respect to Schedule IV anorectics.

F. Termination of Anorectic Use. Without regard to the permissible limitations otherwise prescribed by §6907.E, a physician shall refuse to initiate or re-initiate or shall terminate the use of anorectics with respect to a patient on any date that the physician determines, becomes aware, knows, or should know that:

1. the patient is not a proper candidate for the use of anorectics under the conditions and limitations prescribed by this Section;

2. the patient has failed to demonstrate clinically significant weight loss since anorectics were last prescribed, dispensed, or administered to the patient by the physician;

3. the patient has developed tolerance to the appetite suppressant effect of the anorectic or has experienced euphoria followed by irritability or depression;

4. the patient has engaged in excessive use, misuse, or abuse of the anorectic or has otherwise consumed or disposed of the anorectics or any other controlled substance other than in strict compliance with the directions and indications for use given by the physician; or

5. the patient did not demonstrate clinically significant weight loss during a prior term of use of anorectics within the limitations of §6907.E.3 hereof.

G. Treatment Records. Satisfaction of each of the conditions and requirements prescribed by this Section, all material elements of the patient's history, all significant findings from physical examination and diagnostic testing, and all medication and other treatment, including diet, prescribed by the physician, shall be accurately and completely recorded, documented, and dated, in writing, by the physician in the patient's record.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(A)(1), R.S. 37:1270(B)(6), and R.S. 37:1285(B).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 18:744 (July 1992), amended LR 23:1146 (September 1997).

§6909. Exemption of Controlled Scientific Studies

A. The prohibitions, conditions, and limitations on the use of Schedule III and Schedule IV anorectic medications prescribed by §6905.B and §6907 of this Subchapter shall not be applicable to a physician engaged in the conduct of a controlled scientific study of the efficacy of such medications in the medical treatment of obesity, provided that the physician is employed by or otherwise officially affiliated with an accredited medical school or college or other institution of higher learning located in the state of Louisiana, such study is conducted under the auspices of such school, college, or institution, and the interim and final results of such study are furnished to the board in writing.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(A)(1), R.S. 37:1270(B)(6), and R.S. 37:1285(B).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board Of Medical Examiners, LR 18:744 (July 1992).

§6911. Exceptions in Individual Cases

A. Availability of Exceptions. Upon written application to the board made in accordance with this Subsection, the board may authorize a physician, with respect to an identified individual patient, to exceed or otherwise depart from the prohibitions, conditions, and limitations on the use of Schedule III or Schedule IV anorectics otherwise prescribed by §6905.B and §6907 of this Subchapter.

B. Form, Content of Application for Exception. An application for board approval of an individual exception from the provisions of this Subchapter shall be submitted to the board's medical consultant in writing and shall contain:

1. individual identification of the patient to whom the physician proposes to prescribe, dispense, or administer anorectics other than in accordance with the provisions of this Subchapter;

2. a summary of the patient's medical and weight loss/gain history;

3. a complete copy of the patient's medical record, including a record of all anorectic medications prescribed, dispensed, or administered to or for the patient within 24 months prior to the application;

4. a statement by the physician of the specific manner in which the physician proposes to deviate from the provisions of this Subchapter respecting the prescription, dispensation, and administration of anorectic medications, together with a statement by the physician of the medical facts and circumstances deemed by the physician to justify such departure; and

5. such other information and documentation as the board or its medical consultant may request.

C. Board Action. The board may deny, grant, or grant in part any application for exception in an individual case made under this Section. The board's action on any such application shall be stated in writing and shall specify the manner and extent to which the physician shall be authorized to depart from the provisions of this Subchapter and the period of time during which such authorized exception shall be effective. A physician who makes application to the board under this Section shall not deviate from the prohibitions, conditions, and limitations provided in this Subchapter except following receipt of written authorization from the board or other than pursuant to the specifications and limitations of such authorization.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(A)(1), R.S. 37:1270(B)(6), and R.S. 37:1285(B).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 18:745 (July 1992).

§6913. Effect of Violation

A. Any violation of or failure of compliance with the provisions of this Subchapter, §§6901-6913, shall be deemed a violation of R.S. 37:1285.A(6) and (29), providing cause for the board to suspend or revoke, refuse to issue, or impose probationary or other restrictions on any license or permit held or applied for by a physician culpable of such violation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(A)(1), R.S. 37:1270(B)(6), and R.S. 37:1285(B).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 18:746 (July 1992).

Subchapter B. Medications Used in the Treatment of Non-Cancer-Related Chronic or Intractable Pain

§6915. Scope of Subchapter

A. The rules of this Subchapter govern physician responsibility for providing effective and safe pain control for patients with noncancer-related chronic or intractable pain.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(A)(1), 1270(B)(6) and 1285(B).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners LR 23:727 (June 1997), amended LR 26:693 (April 2000).

§6917. Definitions

A. As used in this Subchapter, unless the content clearly states otherwise, the following terms and phrases shall have the meanings specified.

Board the Louisiana State Board of Medical Examiners.

Chronic Pain pain which persists beyond the usual course of a disease, beyond the expected time for healing from bodily trauma, or pain associated with a long term-incurable or intractable medical illness or disease.

Controlled Substance any substance defined, enumerated or included in federal or state statute or regulations 21 C.F.R. §§1308.11-15 or R.S. 40:964, or any substance which may hereafter be designated as a controlled substance by amendment or supplementation of such regulations and statute.

Diversion the conveyance of a controlled substance to a person other than the person to whom the drug was prescribed or dispensed by a physician.

Intractable Pain a chronic pain state in which the cause of the pain cannot be eliminated or successfully treated without the use of controlled substance therapy and, which in the generally accepted course of medical practice, no cure of the cause of pain is possible or no cure has been achieved after reasonable efforts have been attempted and documented in the patient's medical record.

Noncancer-Related Pain that pain which is not directly related to symptomatic cancer.

Physical Dependence the physiological state of neuroadaptation to controlled substance which is characterized by the emergence of a withdrawal syndrome if the controlled substance use is stopped or decreased abruptly, or if an antagonist is administered. Withdrawal may be relieved by readministration of the controlled substance.

Physician physicians and surgeons licensed by the Board.

Protracted Basis utilization of any controlled substance for the treatment of noncancer-related chronic or intractable pain for a period in excess of 12 weeks during any 12-month period.

Substance Abuse (may also be referred to by the term *Addiction*) a compulsive disorder in which an individual becomes preoccupied with obtaining and using a substance, despite adverse social, psychological, and/or physical consequences, the continued use of which results in a decreased quality of life. The development of controlled substance tolerance or physical dependence does not equate with substance abuse or addiction.

Tolerance refers to the physiologic state resulting from regular use of a drug in which an increased dosage is needed to produce the same effect or a reduced effect is observed with a constant dose. Controlled substance tolerance refers to the need to increase the dose of the drug to achieve the same level of analgesia. Controlled substance tolerance may or may not be evident during controlled substance treatment.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(A)(1), 1270(B)(6) and 1285(B).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners LR 23:727 (June 1997), amended LR 26:693 (April 2000).

§6919. General Conditions/Prohibitions

A. The treatment of noncancer-related chronic or intractable pain with controlled substances constitutes legitimate medical therapy when provided in the course of professional medical practice and when fully documented in the patient's medical record. A physician duly authorized to practice medicine in Louisiana and to prescribe controlled substances in this state shall not, however, prescribe, dispense, administer, supply, sell, give, or otherwise use for the purpose of treating such pain, any controlled substance unless done in strict compliance with applicable state and federal laws and the rules enumerated in this Subchapter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(A)(1), R.S. 37:1270(B)(6) and R.S. 37:1285(B).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners LR 23:727 (June 1997), amended LR 26:694 (April 2000).

§6921. Use of Controlled Substances, Limitations

A. Requisite Prior Conditions. In utilizing any controlled substance for the treatment of noncancer-related chronic or intractable pain on a protracted basis, a physician shall comply with the following rules.

1. Evaluation of the Patient. Evaluation of the patient shall initially include relevant medical, pain, alcohol and substance abuse histories, an assessment of the impact of pain on the patient's physical and psychological functions, a review of previous diagnostic studies, previously utilized therapies, an assessment of coexisting illnesses, diseases, or conditions, and an appropriate physical examination.

2. Medical Diagnosis. A medical diagnosis shall be established and fully documented in the patient's medical record, which indicates not only the presence of noncancer-related chronic or intractable pain, but also the nature of the underlying disease and pain mechanism if such are determinable.

3. Treatment Plan. An individualized treatment plan shall be formulated and documented in the patient's medical record which includes medical justification for controlled substance therapy. Such plan shall include documentation that other medically reasonable alternative treatments for relief of the patient's noncancer-related chronic or intractable pain have been considered or attempted without adequate or reasonable success. Such plan shall specify the intended role of controlled substance therapy within the overall plan, which therapy shall be tailored to the individual medical needs of each patient.

4. Informed Consent. A physician shall ensure that the patient and/or his guardian is informed of the benefits and risks of controlled substance therapy. Discussions of risks and benefits should be noted in some format in the patient's record.

B. Controlled Substance Therapy. Upon completion and satisfaction of the conditions prescribed in §6921.A, and upon a physician's judgment that the prescription, dispensation, or administration of a controlled substance is medically warranted, a physician shall adhere to the following rules.

1. Assessment of Treatment Efficacy and Monitoring. Patients shall be seen by the physician at appropriate intervals, not to exceed 12 weeks, to assess the efficacy of treatment, assure that controlled substance therapy remains indicated, and evaluate the patient's progress toward treatment objectives and any adverse drug effects. Exceptions to this interval shall be adequately documented in the patient's record. During each visit, attention shall be given to the possibility of decreased function or quality of life as a result of controlled substance treatment. Indications of substance abuse or diversion should also be evaluated. At each visit, the physician should seek evidence of under treatment of pain.

2. Drug Screen. If a physician reasonably believes that the patient is suffering from substance abuse or that he is diverting controlled substances, the physician shall obtain a drug screen on the patient. It is within the physician's discretion to decide the nature of the screen and which type of drug(s) to be screened.

3. Responsibility for Treatment. A single physician shall take primary responsibility for the controlled substance therapy employed by him in the treatment of a patient's noncancer-related chronic or intractable pain.

4. Consultation. The physician should be willing to refer the patient as necessary for additional evaluation and treatment in order to achieve treatment objectives. Special attention should be given to those pain patients who are at risk for misusing their medications and those whose living arrangements pose a risk for medication misuse or diversion. The management of pain in patients with a history of substance abuse or with a comorbid psychiatric disorder may require extra care, monitoring, documentation, and consultation with or referral to an expert in the management of such patients.

5. Medications Employed. A physician shall document in the patient's medical record the medical necessity for the use of more than one type or schedule of controlled substance employed in the management of a patient's noncancer-related chronic or intractable pain.

6. Treatment Records. A physician shall document and maintain in the patient's medical record, accurate and complete records of history, physical and other examinations and evaluations, consultations, laboratory and diagnostic reports, treatment plans and objectives, controlled substance and other medication therapy, informed consents, periodic assessments, and reviews and the results of all other attempts at analgesia which he has employed alternative to controlled substance therapy.

7. Documentation of Controlled Substance Therapy. At a minimum, a physician shall document in the patient's medical record the date, quantity, dosage, route, frequency of administration, the number of controlled substance refills authorized, as well as the frequency of visits to obtain refills.

C. Termination of Controlled Substance Therapy. Evidence or behavioral indications of substance abuse or diversion of controlled substances shall be followed by tapering and discontinuation of controlled substance therapy. Such therapy shall be reinitiated only after referral to and written concurrence of the medical necessity of continued controlled substance therapy by an addiction medicine specialist, a pain management specialist, a psychiatrist, or other substance abuse specialist based upon his physical examination of the patient and a review of the referring physician's medical record of the patient.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(A)(1), R.S. 37:1270(B)(6), and R.S. 37:1285(B).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 23:727 (June 1997), amended LR 26:694 (April 2000).

§6923. Effect of Violation

A. Any violation of or failure of compliance with the provisions of this Subchapter, §§6915-6923, shall be deemed a violation of R.S. 37:1285.A(6) and (14), providing cause for the board to suspend or revoke, refuse to issue, or impose probationary or other restrictions on any license held or applied for by a physician to practice medicine in the state of Louisiana culpable of such violation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(A)(1), R.S. 37:1270(B)(6), and R.S. 37:1285(B).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 23:728 (June 1997), amended LR 26:695 (April 2000).

Chapter 71. Integrative and Complementary Medicine

Subchapter A. General Provisions

§7101. Scope of Chapter

A. The rules of this Chapter govern physician use of integrative or complementary medicine in the treatment of patients.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(A)(1), 1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 28:1589 (July 2002).

§7103. Definitions

A. As used in this Chapter, unless the content clearly states otherwise, the following terms and phrases shall have the meanings specified.

Board the Louisiana State Board of Medical Examiners.

Controlled Substance any substance defined, enumerated or included in federal or state regulations or statute 21 CFR 1308.11-15 or R.S. 40:964, or any substance which may hereafter be designated as a controlled substance by amendment or supplementation of such regulations or statute.

Conventional or Conventional Medicine diagnostic methods or therapies offered or employed by a physician, or under his on-site supervision and direction, in the diagnosis, prevention or treatment of any illness, disease or condition which are generally accepted and recognized as falling within the standard of care in the course of medical practice based upon medical training, experience and peer reviewed scientific literature.

Integrative or Complementary Medicine diagnostic methods or therapies offered or employed by a physician, or under his on-site supervision and direction, in addition or as an alternative to conventional medicine methods or therapies, in the diagnosis, prevention or treatment of any illness, disease or condition which do not, in the judgment of the physician, pose a safety risk for a patient that is greater than conventional medicine methods or therapies and provided there exists a reasonable probability for diagnostic or therapeutic effectiveness in its intended use. Integrative or complementary medicine does not include the use of controlled substances in the treatment of patients suffering from chemical dependency.

On-Site Supervision and Direction medical functions or procedures performed under physician supervision and direction by an appropriately trained and qualified non-physician in the course and scope of his or her employment or contractual relationship with a physician, when such physician is physically present on the premises at all times that such non-physician is on duty and retains full responsibility to patients and the board for the manner and results of all services rendered. On-site supervision and direction shall not be construed under any circumstances to permit a non-physician to act independently of a physician or exercise independent medical judgment in rendering a diagnosis, prescribing medication or in implementing modalities of diagnosis or treatment.

Physician a person possessing a current license issued by the board to practice medicine in the state of Louisiana.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(A)(1), 1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 28:1589 (July 2002).

§7105. General Conditions/Prohibitions

A. The use of integrative or complementary medicine for the diagnosis or treatment of any illness, disease or condition, constitutes legitimate medical therapy when provided in the course of professional medical practice, complies with the standard of care applicable to conventional medicine practitioners, and when fully documented in the patient's medical record. Any physician utilizing integrative or complementary medicine shall do so in strict compliance with the Rules enumerated in this Chapter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(A)(1), R.S. 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 28:1589 (July 2002).

§7107. Use of Integrative or Complementary Medicine; Limitations

A. Requisite Prior Conditions. Any physician offering or utilizing integrative or complementary medicine shall comply with the following rules.

1. Evaluation of the Patient. Prior to offering integrative or complementary medicine a physician shall perform an evaluation of the patient that shall include but not be limited to any conventional methods of diagnosis which, in the judgment of the physician, are deemed necessary or appropriate to the condition of the patient. Such an evaluation shall include:

a. a relevant medical history;

b. an appropriate physical examination; and

c. a review of the results of any relevant diagnostic studies or therapies undertaken or previously attempted.

2. Medical Diagnosis. A medical diagnosis shall be established by the physician and documented in the patient's medical record, which indicates the nature of the patient's illness, disease, condition or other reason for which treatment is being sought if such is determinable.

3. Treatment Plan. A treatment plan by which progress or success can be evaluated with stated objectives shall be formulated by the physician which is tailored to the individual needs of the patient and documented in the patient's medical record. Such plan shall include documentation of:

a. whether conventional or complementary methods of diagnosis or treatment for the current complaint or condition have been considered, are being undertaken or have been attempted without adequate or reasonable success or a statement that the patient has refused such methods;

b. consideration for the need for conventional testing, consultation, referral or treatment when indicated;

c. the intended role of integrative or complementary medicine within the overall plan; and

d. whether integrative or complementary medicine offered or utilized could interfere with any ongoing conventional therapy.

4. Informed Consent. A physician shall inform a patient or his guardian of each of the following, which discussions shall be noted in some form in the patient's record:

a. his education, experience and credentials regarding any integrative or complementary medicine which is recommended; and

b. the risks and benefits of both conventional medicine and integrative or complementary medicine incorporated within each treatment plan.

B. A physician shall inform the patient that his recommendation for the use of a particular drug, substance or medical device for diagnosis or treatment of the patient's illness, disease or condition is investigational, experimental, new, unconventional or unproven.

C. Initiation of Integrative or Complementary Medicine. Upon completion and satisfaction of the conditions prescribed in §7107.A.-B, and upon a physician's judgment that integrative or complementary medicine is warranted for purposes of diagnosis or treatment, a physician shall adhere to the following Rules.

1. Assessment of Treatment Efficacy and Monitoring. Patients shall be seen by the physician at intervals appropriate to the danger or safety risk of the diagnostic methods or therapy provided, to assess the efficacy thereof, assure that all treatment recommended or prescribed remains indicated and evaluate the patient's progress toward treatment objectives and any adverse effects. During each visit attention should be given to the need for additional methods of diagnosis, consultation, referral or treatment. Lack of progress from integrative or complementary medicine therapy, or a worsening of symptoms, signs or prognosis, shall indicate the need to revise the treatment plan.

2. Consultation. Physicians shall refer a patient as necessary for additional evaluation or treatment by conventional or integrative or complementary methods, particularly in those patients who are at risk from a potentially life-threatening illness, disease or condition.

3. Medication/Medical Devices Employed. A physician shall document in the patient's medical record the medical rationale for the use of any medication or substance, including a controlled substance, and any medical device employed in the diagnosis or treatment of a patient's illness, disease or condition. The use of controlled substances for the treatment of obesity and chronic or intractable pain shall be in conformity with §6901 et seq. and §6915 et seq., respectively, of the board's rules.

4. Treatment Records. A physician shall document and maintain in the patient's medical record, accurate and complete records of history, physical and other examinations and diagnostic evaluations, consultations, laboratory and diagnostic reports, treatment plans and objectives, medications, including controlled substances, informed consents, periodic assessments and the results of all conventional and integrative or complementary medicine therapies utilized.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(A)(1), R.S. 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 28:1589 (July 2002).

§7109. Effect of Violation

A. Any violation or failure of compliance with the provisions of this Chapter, shall be deemed unprofessional conduct and conduct in contravention of the board's rules, in violation of R.S. 37:1285.A(13) and (30) respectively, as well as violation of any other applicable provision of R.S. 37:1285.A, providing cause for the board to suspend, revoke, refuse to issue, or impose probationary or other restrictions on any license held or applied for by a physician to practice medicine in the state of Louisiana culpable of such violation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(A)(1), R.S. 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 28:1590 (July 2002).

Subchapter B. Integrative or Complementary Medicine Advisory Committee

§7111. Organization, Authority and Responsibilities

A. Constitution. An Integrative and Complementary Medicine Advisory Committee (the "advisory committee") to the board is hereby constituted to be composed, appointed and to have such functions as hereinafter provided.

B. Composition and Qualifications. The advisory committee shall be comprised of up to five physicians each of whom shall be in good standing with the board, have practiced and resided within the state of Louisiana for not less than one year, possess experience in and have specialized in integrative or complementary medicine for not less than three years.

C. Appointment; Term of Service. Of the board's initial appointments, two members of the advisory committee will be appointed to serve terms expiring on the last day of the year of appointment with the remaining members to serve

terms expiring on the last day of the year succeeding the year of appointment. Thereafter, each member of the advisory committee shall serve a term of two years or until his or her successor is appointed. Advisory committee members shall be eligible for reappointment. All members of the advisory committee shall serve and be subject to removal at any time at the pleasure of the board. Members appointed to the advisory committee to fill a vacancy occurring other than by expiration of the designated term shall serve for the unexpired term. Other than the initial appointments provided for herein, board appointments to the advisory committee shall be effective when made with respect to appointments for unexpired terms and otherwise shall be effective as of the first day of the year following the date of appointment.

D. Functions and Responsibilities of the Committee. The advisory committee is responsible and authorized by the board to:

1. provide advice and recommendations to the board respecting the modification, amendment and supplementation of rules and regulations, standards of care and policies and procedures respecting integrative or complementary medicine;

2. advise, assist and provide the board with such information and expertise as it may request and upon which it may rely, with respect to investigative and/or disciplinary proceedings affecting physicians utilizing integrative or complementary medicine;

3. serve as a liaison between the board and physicians practicing integrative or complementary medicine;

4. perform such other functions and provide such additional advice and recommendations as may be requested by the board; and

5. receive reimbursement for attendance at board meetings and for other expenses when specifically authorized by the board.

E. Confidentiality. In discharging the functions authorized under §7111, the advisory committee and the individual members thereof, when acting within the scope of such authority, shall be deemed agents of the board. All information obtained by the advisory committee members pursuant to §7111.D of this Chapter or otherwise shall be considered confidential. Advisory committee members are prohibited from communicating, disclosing, or in any way releasing to anyone, other than the board, its employees or agents, any information or documents obtained when acting as agents of the board without first obtaining written authorization of the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(A)(1), 1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 28:1590 (July 2002).

Chapter 73. Office-Based Surgery

Subchapter A. General Provisions

§7301. Scope of Chapter

A. The rules of this Chapter govern the performance of office-based surgery by physicians in this state.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(A)(1), 1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 30:424 (March 2004).

§7303. Definitions

A. As used in this Chapter, unless the content clearly states otherwise, the following terms and phrases shall have the meanings specified.

Anesthesia Provider an *anesthesiologist* or *certified registered nurse anesthetist* who possesses current certification or other evidence of completion of training in advanced cardiac life support training or pediatric advanced life support for pediatric patients.

Anesthesiologist a *physician* licensed by the *board* to practice medicine in this state who has completed post-graduate residency training in anesthesiology and is engaged in the practice of such specialty.

Board the Louisiana State Board of Medical Examiners.

Certified Registered Nurse Anesthetist (*CRNA*) an advanced practice registered nurse certified according to the requirements of a nationally recognized certifying body approved by the Louisiana State Board of Nursing ("Board of Nursing") who possesses a current license or permit duly authorized by the Board of Nursing to select and administer anesthetics or provide ancillary services to patients pursuant to R.S. 37:911 et seq., and who, pursuant to R.S. 37:911 et seq., administers anesthetics and ancillary services under the direction and supervision of a *physician* who is licensed to practice under the laws of the state of Louisiana.

Conscious Sedation a drug-induced depression of consciousness during which patients retain the ability to independently maintain an airway, ventilatory and cardiovascular functions and respond purposefully to verbal commands, either alone or accompanied by light tactile stimulation.

Deep Sedation, Monitored Sedation, General Anesthesia (referred to in this Chapter as *anesthesia* unless the context states otherwise) a drug-induced loss of consciousness that results in the partial or complete loss of ability to independently maintain an airway, ventilatory, neuromuscular or cardiovascular function and during which patients are not arousable, even by painful stimulation.

Medical Practice Act or the Act R.S. 37:1261-92 as may be amended from time to time.

Office-Based Surgery any *surgery or surgical procedure* not exempted by these rules that is performed in an *office-based surgery setting or facility.*

Office-Based Surgery Setting or Facility any clinical setting not exempted by these rules where surgery is performed.

Physician a person lawfully entitled to engage in the practice of medicine in this state as evidenced by a current license or permit duly issued by the *board*.

Reasonable Proximity a distance of not more than 30 miles or one which may be reached within 30 minutes for patients 13 years of age and older and a distance of not more than 15 miles or one which can be reached within 15 minutes for patients 12 years of age and under.

Regional Anesthesia/Blocks (referred to in this Chapter as (*regional anesthesia*) the administration of anesthetic agents that interrupt nerve impulses without loss of consciousness or ability to independently maintain an airway, ventilatory or cardiovascular function that includes but is not limited to the upper or lower extremities. For purposes of this Chapter regional anesthesia of or near the central nervous system by means of epidural or spinal shall be considered *general anesthesia*.

Surgery or Surgical Procedure the excision or resection, partial or complete destruction, incision or other structural alteration of human tissue by any means, including but not limited to lasers, pulsed light, radio frequency, or medical microwave devices, that is not exempted by these rules upon the body of a living human being for the purpose of preserving health, diagnosing or curing disease, repairing injury, correcting deformity or defects, prolonging life, relieving suffering or any elective procedure for aesthetic, reconstructive or cosmetic purposes. Surgery shall have the same meaning as "operate."

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(A)(1), 1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 30:424 (March 2004).

§7305. Exemptions

A. This Chapter shall not apply to the following surgical procedures or clinical settings:

1. exempt surgical procedures include those:

a. requiring no anesthesia, using only local, oral, topical or intra-muscular anesthesia, those using regional anesthesia as defined by this Chapter or those using conscious sedation either individually or in combination; and/or

b. performed by a physician oral and maxillofacial surgeon under the authority and within the scope of a license to practice dentistry issued by the Louisiana State Board of Dentistry;

2. excepted clinical settings include:

a. a hospital, including an outpatient facility of the hospital that is separated physically from the hospital, an ambulatory surgical center, abortion clinic or other medical facility that is licensed and regulated by the Louisiana Department of Health and Hospitals;

b. a facility maintained or operated by the state of Louisiana or a governmental entity of this state;

c. a clinic maintained or operated by the United States or by any of its departments, offices or agencies; and

d. an outpatient setting currently accredited by one of the following associations or its successor association:

i. the Joint Commission on Accreditation of Healthcare Organizations relating to ambulatory surgical centers;

ii. the American Association for the Accreditation of Ambulatory Surgery Facilities; or

iii. the Accreditation Association for Ambulatory Health Care.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(A)(1), R.S. 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 30:425 (March 2004).

§7307. Prohibitions

A. On and after January 1, 2005, no physician shall perform office-based surgery except in compliance with the rules of this Chapter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(A)(1), R.S. 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 30:425 (March 2004).

§7309. Prerequisite Conditions

A. A physician who performs office-based surgery shall adhere to and comply with the following rules.

1. Facility and Safety

a. The facility shall comply with all applicable federal, state and local laws, codes and regulations pertaining to fire prevention, building construction and occupancy, accommodations for the disabled, occupational safety and health, medical waste and hazardous waste, infection control and storage and administration of controlled substances.

b. All premises shall be kept neat and clean. Operating areas shall be sanitized and materials, instruments, accessories and equipment shall be sterilized.

c. Supplies of appropriate sterile linens, gloves and dressings shall be maintained in sufficient quantities for routine and emergency use. All surgical personnel shall wear suitable operative attire.

d. Supplies of appropriate drugs, medications and fluids shall be maintained in sufficient quantities for routine and emergency use.

2. Quality of Care

a. A physician performing office-based surgery shall:

i. possess current staff privileges to perform the same procedure at a hospital located within a reasonable proximity; or

ii.(a). have achieved board certification from a board recognized by the American Board of Medical Specialties in a specialty that encompasses the procedure performed in an office-based surgery setting; and

(b). possess current admitting privileges at a hospital located within a reasonable proximity;

b. a physician performing office-based surgery shall possess current certification or other evidence of completion of training in advanced cardiac life support training or pediatric advanced life support for pediatric patients;

c. a physician performing office-based surgery shall ensure that all individuals who provide patient care in the office-based surgery setting are duly qualified, trained and possess a current valid license or certificate to perform their assigned duties. An unlicensed individual otherwise properly trained in the performance of a given procedure or duty shall participate in a patient's care only under the on-site direction and supervision of a physician who retains responsibility to the patient for the individual's performance.

3. Patient and Procedure Selection

a. Any office-based surgical procedure shall be within the training and experience of the operating physician, the health care practitioners providing clinical care assistance and the capabilities of the facility.

b. The surgical procedure shall be of a duration and degree of complexity that shall permit the patient to recover and be discharged from the facility on the same day. Under no circumstances shall a patient be permitted to remain in an office-based surgery setting overnight.

4. Informed Consent

a. Informed consent for surgery and the planned anesthetic intervention shall be obtained from the patient or legal guardian in accordance with the requirements of law.

5. Patient Care

a. The anesthesia provider shall be physically present throughout the surgery.

b. The anesthesia provider or an individual possessing current certification or other evidence of completion of training in advanced cardiac life support training or pediatric advanced life support for pediatric patients shall remain in the facility until all patients have been released from anesthesia care by a CRNA or a physician.

c. Discharge of a patient shall be properly documented in the medical record.

6. Monitoring and Equipment

a. There shall be sufficient space to accommodate all necessary equipment and personnel and to allow for expeditious access to the patient and all monitoring equipment.

b. All equipment shall be in proper working condition; monitoring equipment shall be available, maintained, tested and inspected according to the manufacturer's specifications.

c. A secondary power source appropriate for equipment in use in the event of a power failure shall be available. In the event of an electrical outage which disrupts the capability to continuously monitor all specified patient parameters, heart rate and breath sounds shall be monitored using a precordial stethoscope or similar device and blood pressure measurements shall be re-established using a non-electrical blood pressure measuring device until power is restored.

d. In an office where anesthesia services are to be provided to infants and children the required equipment, medication, including drug dosage calculations, and resuscitative capabilities shall be appropriately sized for a pediatric population.

e. All facilities shall have an auxiliary source of oxygen, suction, resuscitation equipment and medication for emergency use. A cardiopulmonary resuscitative cart shall be available and shall include, but not be limited to, an Ambu Bag, laryngoscope, emergency intubation equipment, airway management equipment, a defibrillator with pediatric paddles if pediatric patients are treated and a medication kit which shall include appropriate non-expired medication for the treatment of anaphylaxis, cardiac arrhythmia, cardiac arrest and malignant hyperthermia when triggering agents are used or if the patient is at risk for malignant hyperthermia. Resources for determining appropriate drug doses shall be readily available.

7. Emergencies and Transfers

a. Emergency instructions along with the names and telephones numbers to be called in the event of an emergency (i.e., emergency medical services ("EMS"), ambulance, hospital, 911, etc.) shall be posted at each telephone in the facility.

b. Agreements with local EMS or ambulance services shall be in place for the purpose of transferring a patient to a hospital in the event of an emergency.

c. Pre-existing arrangements shall be established for definitive care of patients at a hospital located within a reasonable proximity when extended or emergency services are needed to protect the health or well being of the patient.

8. Medical Records

a. A complete medical record shall be documented and maintained of the patient history, physical and other examinations and diagnostic evaluations, consultations, laboratory and diagnostic reports, informed consents,

preoperative, inter-operative and postoperative anesthesia assessments, the course of anesthesia, including monitoring modalities and drug administration, discharge and any follow-up care.

9. Policies and Procedures

a. Written policies and procedures for the orderly conduct of the facility shall be prepared for the following areas:

i. management of anesthesia including:

(a). patient selection criteria;

(b). drug overdose, cardiovascular and respiratory arrest, and other risks and complications from anesthesia;

(c). the procedures to be followed while a patient is recovering from anesthesia in the office; and

(d). release from anesthesia care and discharge criteria;

ii. infection control (surveillance, sanitation and asepsis, handling and disposal of waste and contaminants, sterilization, disinfection, laundry, etc.); and

iii. management of emergencies, including:

(a). the procedures to be followed in the event that a patient experiences a complication;

(b). the procedures to be followed if the patient requires transportation for emergency services including the identity and telephone numbers of the EMS or ambulance service if one is to be utilized, the hospital to which the patient is to be transported and the functions to be undertaken by health care personnel until a transfer of the patient is completed;

(c). fire and bomb threats.

b. All facility personnel providing patient care shall be familiar with, appropriately trained in and annually review the facility's written policies and procedures.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(A)(1), 1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 30:425 (March 2004).

§7311. Administration of Anesthesia

A. Evaluation of the Patient. An anesthesia provider shall perform a pre-anesthesia evaluation, counsel the patient and prepare the patient for anesthesia.

B. Diagnostic Testing, Consultations. Appropriate pre-anesthesia diagnostic testing and consults shall be obtained as indicated by the pre-anesthesia evaluation.

C. Anesthesia Plan of Care. A patient-specific plan for anesthesia care shall be formulated based on the assessment of the patient, the surgery to be performed and the capacities of the facility.

D. Administration of Anesthesia. Anesthesia shall be administered by an anesthesia provider who shall not participate in the surgery.

E. Monitoring. Monitoring of the patient shall include continuous monitoring of ventilation, oxygenation and cardiovascular status. Monitors shall include, but not be limited to, pulse oximetry, electrocardiogram continuously, non-invasive blood pressure measured at appropriate intervals, an oxygen analyzer and an end-tidal carbon dioxide analyzer. A means to measure temperature shall be readily available and utilized for continuous monitoring when indicated. An audible signal alarm device capable of detecting disconnection of any component of the breathing system shall be utilized. The patient shall be monitored continuously throughout the duration of the procedure. Post-operatively, the patient shall be evaluated by continuous monitoring and clinical observation until stable. Monitoring and observations shall be documented in the patient's medical record.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(A)(1), 1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 30:427 (March 2004).

§7313. Reports to the Board

A. A physician performing office-based surgery shall notify the board in writing within 15 days of the occurrence or receipt of information that an office-based surgery resulted in:

1. an unanticipated and unplanned transport of the patient from the facility to a hospital emergency department;

2. an unplanned readmission to the office-based surgery setting within 72 hours of discharge from the facility;

3. an unscheduled hospital admission of the patient within 72 hours of discharge from the facility; or

4. the death of the patient within 30 days of surgery in an office-based facility.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(A)(1), 1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 30:427 (March 2004).

§7315. Effect of Violation

A. Any violation or failure to comply with the provisions of this Chapter shall be deemed unprofessional conduct and conduct in contravention of the board's rules, in violation of R.S. 37:1285(A)(13) and (30), respectively, as well as violation of any other applicable provision of R.S. 37:1285(A), providing cause for the board to suspend, revoke, refuse to issue or impose probationary or other restrictions on any license held or applied for by a physician culpable of such violation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(A)(1), R.S. 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 30:427 (March 2004).

Title 46
PROFESSIONAL AND OCCUPATIONAL STANDARDS
Part XLV. Medical Professions
Subpart 4. Administrative Provisions

Chapter 81. Fees and Costs

Subchapter L. Private Radiologic Technologists

§8183. Scope of Subchapter

A. The rules of this Subchapter prescribe the fees and costs applicable to the certification of private radiological technologists.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1292.
HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 13:577 (October 1987).

§8185. Certification

A. For processing an application for certification of a private radiological technologist as to proficiency, a fee of $35, of which $25 represents a nonrefundable processing fee, shall be payable to the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1292.
HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 13:577 (October 1987).

Chapter 83. Investigation of Information and Records Relating to Physician Impairment

§8301. Scope of Chapter

A. The rules of this Chapter prescribe the policy and procedures governing the board's exercise of its authority under R.S. 37:1278.B to obtain, either by informal request or through the mandate of investigative or adjudicatory proceeding subpoena, disclosure of medical information and records relative to the physical and mental condition of physicians licensed by the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(B)(1), (6) and R.S. 37:1278(B).
HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 15:269 (April 1989).

§8303. Definitions

A. As used in this Chapter, the following terms shall have the meanings specified.

Health Care Provider an individual or institutional state-licensed provider of health care services.

Medical Records any and all notes, records, charts, memoranda, test results, reports, radiographic films, or other written, graphic, or recorded items and materials, on whatsoever media recorded or stored and howsoever maintained relating to professional services in the nature of examination, history, evaluation, diagnosis, therapy, or treatment by a health care provider.

Physician a person possessing a doctor of medicine or equivalent degree who has applied to the board for a license or permit to practice medicine in the state of Louisiana or who holds a medical license or permit issued by the board.

B. Masculine terms wheresoever used in this Chapter shall be deemed to include the feminine.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(B)(1), (6) and R.S. 37:1278(B).
HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 15:269 (April 1989).

§8305. Statement of Policy and Intent

A. The privilege of confidentiality with respect to communications between a patient and a physician, recognized equally as a matter of Louisiana law and professional medical ethics, serves an important public policy interest in encouraging and permitting a patient's forthright, full, and unfettered communication of medically relevant information to a physician, communication vital to the integrity and effectiveness of the physician-patient relationship. The board recognizes that the principle of confidentiality is no less important with respect to a physician who is himself a patient of another physician. Contraposed with its solicitude for such principles and interests, however, is the board's statutory responsibility to safeguard the public against physicians whose capacity to practice medicine with reasonable skill and safety is compromised by physical or mental condition, disease, or infirmity. In appropriate instances in which the board has reasonable cause to believe that a physician's ability to practice medicine safely is impaired, as in other instances recognized by law, it is necessary and appropriate that the individual physician's interest in the confidentiality of his medical records and information yield to the overriding public interest.

B. The board interprets R.S. 37:1278.B to authorize the board to obtain disclosure of medical information and records in the possession of physicians and other health care practitioners and institutions which relate to the diagnosis or treatment of a physician when the board, on the basis of a written complaint, has reasonable cause to believe that the

physician to whom such information or records relate is or may be incapable of practicing medicine with reasonable skill and safety to patients by virtue of mental illness or deficiency or physical illness, including but not limited to deterioration through the aging process or the loss of motor skills, and/or the excessive use or abuse of drugs, including alcohol. The board specifically interprets R.S. 37:1278.B, in intent and effect, to confine the scope of the board's authority to obtain disclosure of medical information and records to obtaining, by request or subpoena, only such information and records as are relevant to the patient-physician's capacity to practice medicine with reasonable skill and safety.

C. In the implementation of this authority, it is and shall be the policy of the board to exercise due regard for the important interests served by confidentiality of medical information and records and, accordingly, to exercise such authority only in circumstances in which the information or records sought are not otherwise reasonably available to the board and the board's exercise of the authority conferred by R.S. 37:1278.B is necessary to discharge its responsibilities under the Medical Practice Act.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(B)(1), (6) and R.S. 37:1278(B).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 15:269 (April 1989).

§8307. Basis for Obtaining Medical Information and Records

A. Pursuant to the authority vested in the board by R.S. 37:1278.B, the board may request, subpoena, or otherwise seek to obtain otherwise privileged or confidential medical information and records from a health care provider relating to such health care provider's diagnosis or treatment of a physician licensed by the board, without such physician's express authorization or consent, when:

1. the board has grounds for an objectively reasonable belief that the subject physician's capacity to practice medicine with reasonable skill and safety to patients is impaired by mental illness or deficiency, or physical illness, including but not limited to deterioration through the aging process or the loss of motor skills, and/or the excessive use or abuse of drugs; and

2. the board has a reasonable basis for believing that the health care provider is in possession of information or records relevant to a determination as to whether the subject physician is incapable of practicing medicine with reasonable skill and safety to patients.

B. The reasonable belief required by §8307.A.1 must be based, in whole or in part, upon information provided to the board in writing which is apparently reliable and is subscribed by an identifiable individual or institution or upon information developed by investigation of the board initiated upon a complaint of or against the subject physician submitted in written form to the board and signed by the complainant.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(B)(1), (6) and R.S. 37:1278(B).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 15:269 (April 1989).

§8309. Procedure for Obtaining Medical Information and Records

A. When the board has a basis, pursuant to R.S. 37:1278.B and as specified by §8307, for seeking and obtaining disclosure from a health care provider of otherwise privileged or confidential medical information and records relating to the diagnosis or treatment of a physician, and such information is required in connection with an official investigation or pending adjudication of the board, prior to a request or service of an investigative subpoena by the board for such information or records, the board shall first serve an initial inquiry in writing on the health care provider. Such initial inquiry shall:

1. clearly identify the physician who is the subject of the board's inquiry;

2. indicate the nature of the condition, disease, or infirmity which the board believes affects the subject physician's capacity to practice medicine with reasonable skill and safety;

3. request the health care provider's response as to whether such health care provider:

a. does have in his or its possession information and/or records relevant to a determination as to whether the subject physician is incapable of practicing medicine with reasonable skill and safety to patients;

b. does not have in his or its possession information or records relevant to such determination; or

c. is unable to determine whether information or records in his or its possession are relevant to such determination;

4. request that the health care provider:

a. if an institution, submit to the board a true and complete copy of all relevant medical records in the possession of the health care provider; or

b. if an individual, submit to the board, at the election of the health care provider, either:

i. a written report and evaluation summarizing the nature and course of the health care provider's services to the subject physician, the condition for which the subject physician was seen, the health care provider's diagnosis, the course of treatment, if any, the results of such treatment, and the health care provider's prognosis for the subject physician, to the extent that such information may be relevant to a determination of the physician's capacity to practice medicine with reasonable skill and safety, together with the health care provider's opinion, if any, as to whether, as of the date of such report, or as of the date that the subject physician was last seen, examined, or evaluated by the health care provider, the subject physician was capable of practicing medicine with reasonable skill and safety; or

ii. a true and complete copy of all medical records in the possession of the health care provider relevant to the physician's capability of practicing medicine with reasonable skill and safety;

5. provide a summary of the provisions of R.S. 37:1278.B; and

6. prescribe a reasonable deadline for the health care provider to submit its response to the board.

B. If the board has reason to believe that a health care provider's response to its initial inquiry is inaccurate, incomplete, or insufficient in any respect, notwithstanding a timely response or the submission of a written report or medical records, the board may appoint an independent consultant to consult with the health care provider concerning his or its response. The independent consultant shall be a physician licensed by the board who shall, to the extent possible and practicable, be designated by the board from among physicians engaged in the same specialty practice as the responding health care provider. In the selection of such consultant the board may consult with the Impaired Physicians Committee of the Louisiana State Medical Society or with appropriate specialty medical organizations. Such independent consultant shall be authorized to consult with the health care provider concerning the information and records in the possession of the health care provider relative to the subject physician, to examine the records of the health care provider relative to the subject physician, and to advise the board as to whether, in the opinion of the independent consultant, the health care provider is in possession of relevant medical information and records not previously reported or provided to the board. The independent consultant's consultation with the health care provider and his examination of the health care provider's records shall otherwise be maintained in confidence, and the independent consultant shall not disclose to the board the contents of any information or records in the possession of the health care provider.

C. The board may issue and serve a subpoena for the appearance and testimony and/or the production of relevant medical information and records of a health care provider relative to a subject physician:

1. with respect to information or records, previously provided to the board in response to an initial inquiry under §8309.A, which are sought to be introduced, offered into evidence, or otherwise used in connection with an adjudicatory proceeding before the board pursuant to R.S. 37:1285; or

2. when a health care provider fails to timely respond to an initial inquiry under §8309.A; or

3. when an independent consultant appointed by the board pursuant to §8309.B determines that the health care provider is in possession of relevant medical information and records not previously reported or provided to the board; or

4. when a health care provider fails or refuses to consult with or permit examination of records by an independent consultant appointed by the board pursuant to §8309.B; or

5. when the board has reasonable grounds to believe immediate disclosure or production of relevant medical information and records is imperatively required to prevent imminent danger to the public health and safety.

D. With respect to relevant medical information and records in the possession of a health care provider not subject to the board's subpoena authority or not located within the state of Louisiana who or which fails or refuses to respond to an initial inquiry by the board pursuant to §8309.A, or who fails or refuses to provide relevant medical information or records in his or its possession, the subject physician, upon reasonable prior notice and request by the board, shall be obligated to execute and subscribe a written instrument, directed to such health care provider, authorizing such health care provider to disclose and provide relevant medical information and records to the board. A physician's failure to provide such written authorization and consent, when so requested by the board pursuant to this Section, shall be deemed a violation of the rules and regulations of the board, constituting sufficient grounds under R.S. 37:1285.A(30) for the denial of an application by the physician for licensure or for the suspension or revocation of the physician's medical license.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(B)(1), (6) and R.S. 37:1278(B).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 15:269 (April 1989).

§8311. Confidentiality of Medical Information and Records

A. Medical information and records obtained by the board pursuant to R.S. 37:1278.B and the rules of this Chapter, and as to which the privilege of confidentiality has not otherwise been waived or abandoned, shall be maintained in confidence by the board, its officers, members, employees, and agents, shall not be deemed or treated as public records, and shall be privileged against disclosure or production pursuant to administrative or judicial subpoena; provided, however, that any such information or records which are admitted into evidence and made part of the administrative record in an adjudicatory proceeding before the board pursuant to R.S. 37:1285 shall remain confidential but shall not be privileged from disclosure and production pursuant to administrative or judicial subpoena and provided further that any such information or records made a part of an administrative adjudicatory record shall become public records upon the filing of a petition for judicial review of the board's final decision therein.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(B)(1), (6) and R.S. 37:1278(B).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 15:270 (April 1989).

Title 46
PROFESSIONAL AND OCCUPATIONAL STANDARDS
Part XLV. Medical Professions
Subpart 5. Rules of Procedure

Chapter 99. Adjudication

§9901. Scope of Chapter

A. The rules of this Chapter govern the board's initiation and adjudication of administrative complaints providing cause under law for the suspension, revocation, imposition of probation on, or other disciplinary action against persons holding licenses, permits, certifications, or registration issued by the board or applicants therefor.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(B).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 16:507 (June 1990).

§9903. Complaint

A. Proceedings to adjudicate an administrative enforcement action shall be initiated by the filing of a written administrative complaint with the board. The complaint shall be signed by the investigating officer appointed and designated by the board with respect to the subject matter of the complaint and shall name the accused licensee as respondent in the proceedings.

B. The complaint shall set forth, in separately numbered paragraphs, a concise statement of the material facts and matters alleged and to be proven by the investigating officer including the facts giving rise to the board's jurisdiction over the respondent, the facts constituting legal cause under law for administrative action against the respondent, and the statutory or regulatory provisions alleged to have been violated by respondent. The complaint shall conclude with a request for the administrative sanction or other relief sought by the investigating officer and shall bear the name, address, and telephone number of complaint counsel engaged by the board to present the case at evidentiary hearing before the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(B).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 16:507 (June 1990), amended LR 17:480 (May 1991).

§9905. Notice of Hearing

A. Upon the filing of an administrative complaint pursuant to §9903, the board shall docket the complaint and schedule the complaint for hearing before the board not less than 45 days nor more than 180 days thereafter; provided, however, that such time may be lengthened or shortened as the board determines may be necessary or appropriate to protect the public interest or upon motion of the investigating officer or respondent pursuant to a showing of proper grounds. In the event that the respondent's license, permit, certification, or registration has been suspended by the board pending hearing, pursuant to R.S. 49:961(C), evidentiary hearing on the complaint shall be noticed and scheduled not more than 45 days after the filing of the complaint.

B. A written notice of the complaint and the time, date, and place of the scheduled hearing thereon shall be served upon the respondent by registered, return-receipt-requested mail, as well as by regular first class mail, at the most current address for the respondent reflected in the official records of the board, or by personal delivery of the complaint to the respondent. The notice shall include a statement of the legal authority and jurisdiction under which the hearing is to be held and shall be accompanied by a certified copy of the administrative complaint.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(B).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 16:507 (June 1990).

§9907. Response to Complaint; Notice of Representation

A. Within 15 days of service of the complaint, or such longer time as the board, on motion of the respondent, may permit, the respondent may answer the complaint, admitting or denying each of the separate allegations of fact and of law set forth therein. Any matters admitted by respondent shall be deemed proven and established for purposes of adjudication. In the event that respondent does not file a response to the complaint, all matters asserted therein shall be deemed denied.

B. Any respondent may be represented in an adjudication proceeding before the board by an attorney at law duly admitted to practice in any state. Upon receipt of service of a complaint pursuant to this Chapter, or thereafter, a respondent who is represented by legal counsel with respect to the proceeding shall personally or through such counsel, give written notice to the board of the name, address, and telephone number of such counsel. Following receipt of proper notice of representation, all further notices, complaints, subpoenas, orders, or other process related to the proceeding shall be served on respondent through his or her designated counsel of record.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(B).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 16:507 (June 1990).

§9909. Pleadings, Motions; Service

A. All pleadings, motions, or other papers permitted or required to be filed with the board in connection with a pending adjudication proceeding shall be filed by personal delivery at or by mail to the office of the board and shall by the same method of delivery be concurrently served upon complaint counsel designated by the complaint, if filed by or on behalf of the respondent, or upon respondent, through counsel of record if any, if filed by complaint counsel.

B. All such pleadings, motions, or other papers shall be submitted on plain white, letter-size (8 1/2 by 11 inches) bond, with margins of at least one inch on all sides and text double-spaced except as to quotations and other matter customarily single-spaced, shall bear the caption and docket number of the case as it appears on the complaint and shall include the certificate of the attorney or person making the filing that service of a copy of the same has been effected in the manner prescribed by §9909.A.

C. The board may refuse to accept for filing any pleading, motion, or other paper not conforming to the requirements of this Section.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(B).
HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 16:508 (June 1990).

§9911. Prehearing Motions

A. Motions for continuance of hearing, for dismissal of the proceeding and all other prehearing motions shall be filed not later than 30 days following service of the complaint on the respondent or 15 days prior to the hearing, whichever is earlier. Each prehearing motion shall be accompanied by a memorandum which shall set forth a concise statement of the grounds upon which the relief sought is based and the legal authority therefor. A motion may be accompanied by an affidavit as necessary to establish facts alleged in support of the motion. Within 10 days of the filing of any such motion and memorandum or such shorter time as the board may order, the investigating officer, through complaint counsel, may file a memorandum in opposition to or otherwise setting forth the investigating officer's position with respect to the motion.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(B).
HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 16:508 (June 1990).

§9913. Motions for Continuance of Hearing

A. A motion for continuance of hearing shall be filed within the delay prescribed by §9911 of these rules, provided that the board may accept the filing of a motion for continuance at any time prior to hearing upon a showing of good cause not discoverable within the time otherwise provided for the filing of prehearing motions.

B. A scheduled hearing may be continued by the board only upon a showing by respondent or complaint counsel that there are substantial legitimate grounds that the hearing should be continued balancing the right of the respondent to a reasonable opportunity to prepare and present a defense to the complaint and the board's responsibility to protect the public health, welfare, and safety. Except in extraordinary circumstances evidenced by verified motion or accompanying affidavit, the board will not ordinarily grant a motion to continue a hearing that has been previously continued upon motion of the same party.

C. If an initial motion for continuance is not opposed, it may be granted by the executive director.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(B).
HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 16:508 (June 1990).

§9915. Disposition of Prehearing Motions

A. Any prehearing motion, other than an unopposed initial motion for continuance of hearing which may be granted by the executive director, shall be referred for decision to the presiding officer of the hearing panel designated with respect to the proceeding for ruling. The presiding officer, in his discretion, may refer any prehearing motion to the entire panel for disposition, and any party aggrieved by the decision of a presiding officer on a prehearing motion may request that the motion be reconsidered by the entire panel.

B. Prehearing motions shall ordinarily be ruled upon by the presiding officer or the hearing panel, as the case may be, on the papers filed, without hearing. On the written request of respondent or of complaint counsel, however, and on demonstration that there are good grounds therefor, the presiding officer may grant opportunity for hearing, by oral argument, on any prehearing motion.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(B).
HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 16:508 (June 1990).

§9917. Subpoenas for Hearing

A. Upon request of the respondent or complaint counsel and compliance with the requirements of this Section, the executive director, or such other individuals as may be designated by the board, shall sign and issue subpoenas in the name of the board requiring the attendance and giving of testimony by witnesses and the production of books, papers, and other documentary evidence at an adjudication hearing.

B. No subpoena shall be issued unless and until the party who wishes to subpoena the witness first deposits with the board a sum of money sufficient to pay all fees and expenses to which a witness in a civil case is entitled pursuant to R.S. 13:3661 and R.S. 13:3671. Witnesses subpoenaed to testify before the board only to an opinion founded on special study or experience in any branch of science, or to make scientific or professional examinations, and to state the results thereof,

shall receive such additional compensation from the party who wishes to subpoena such witnesses as may be fixed by the board with reference to the value of time employed and the degree of learning or skill required.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(B).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 16:507 (June 1990), amended LR 27:2236 (December 2001).

§9919. Prehearing Conference

A. In any case of adjudication noticed and docketed for hearing, counsel for respondent and complaint counsel may agree, or the presiding officer may require, that a prehearing conference be held among such counsel, or together with the board's independent counsel appointed pursuant to §9921.D hereof, for the purpose of simplifying the issues for hearing and promoting stipulations as to facts and proposed evidentiary offerings which will not be disputed at hearing.

B. Following such prehearing conference the parties shall, and without such conference the parties may by agreement, agree in writing on a prehearing stipulation which should include:

1. a brief statement by complaint counsel as to what such counsel expects the evidence to be presented against respondent to show;

2. a brief statement by respondent as to what the evidence and arguments in defense are expected to show;

3. a list of the witnesses to be called by complaint counsel and by respondent, together with a brief general statement of the nature of the testimony each such witness is expected to give;

4. any stipulations which the parties may be able to agree upon concerning undisputed claims, facts, testimony, documents, or issues; and

5. an estimate of the time required for the hearing.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(B).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 16:509 (June 1990).

§9921. Conduct of Hearing; Record

A. Unless requested by the respondent, adjudication hearings shall be conducted in closed session.

B. At an adjudication hearing, opportunity shall be afforded to complaint counsel and respondent to present evidence on all issues of fact and argument on all issues of law and policy involved, to call, examine, and cross-examine witnesses, and to offer and introduce documentary evidence and exhibits as may be required for a full and true disclosure of the facts and disposition of the complaint.

C. Unless stipulation is made between the parties, and approved by the hearing panel, providing for other means of recordation, all testimony and other proceedings of an adjudication shall be recorded by a certified stenographer who shall be retained by the board to prepare a written transcript of such proceedings.

D. During evidentiary hearing, the presiding officer shall rule upon all evidentiary objections and other procedural questions, but in his discretion may consult with the entire panel in executive session. At any such hearing, the board may be assisted by legal counsel, retained by the board for such purpose, who is independent of complaint counsel and who has not participated in the investigation or prosecution of the case. If the board or panel is attended by such counsel, the presiding officer may delegate to such counsel ruling on evidentiary objections and other procedural issues raised during the hearing.

E. The record in a case of adjudication shall include:

1. the administrative complaint and notice of hearing, respondent's response to the complaint, if any, subpoenas issued in connection with discovery in the case or hearing of the adjudication, and all pleadings, motions, and intermediate rulings;

2. evidence received or considered at the hearing;

3. a statement of matters officially noticed except matters so obvious that statement of them would serve no useful purpose;

4. offers of proof, objections, and rulings thereon;

5. proposed findings and exceptions, if any;

6. the decision, opinion, report, or other disposition of the case made by the board.

F. Findings of fact shall be based exclusively on the evidence and on matters officially noticed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(B).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 16:509 (June 1990).

§9923. Evidence

A. In an adjudication hearing, the board, or the designated hearing panel thereof, may give probative effect to evidence which possesses probative value commonly accepted by reasonably prudent men in the conduct of their affairs. Effect shall be given to the rules of privilege recognized by law. The board or panel may exclude incompetent, irrelevant, immaterial, and unduly repetitious evidence. Objections to evidentiary offers may be made and shall be noted in the record. Subject to these requirements, when a hearing will be expedited and the interests of the parties will not be prejudiced substantially, any part of the evidence may be received in written form.

B. All evidence, including records and documents in the possession of the board which complaint counsel desires the board to consider, shall be offered and made a part of the record, and all such documentary evidence may be received in the form of copies or excerpts, or by incorporation by reference. In case of incorporation by reference, the materials so incorporated shall be available for examination by the respondent before being received in evidence.

C. Notice may be taken of judicially cognizable facts and of generally recognized technical or scientific facts within the board's medical knowledge. Parties shall be notified either before or during the hearing of the material noticed or sought by a party to be noticed, and they shall be afforded an opportunity to contest the material so noticed. The board's medical experience, technical competence, and medical knowledge may be utilized in the evaluation of the evidence.

D. Any member of the board serving as presiding officer in adjudication hearing shall have the power to and shall administer oaths or affirmations to all witnesses appearing to give testimony, shall regulate the course of the hearing, set the time and place of continued hearings, fix the time for the filing of briefs and other documents, if any are required or requested, and may direct the parties to appear and confer to consider simplification of the issues.

E. Except as otherwise governed by the provisions of these rules, adjudication hearings before the board shall be governed by the Louisiana Code of Evidence, insofar as the same may be applied.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(B).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 16:509 (June 1990).

§9925. Informal Disposition

A. The board may make informal disposition, by default, consent order, agreement, settlement, or otherwise of any adjudication pending before it. A consent order shall be considered by the board only upon the recommendation of the investigating officer.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(B).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 16:510 (June 1990).

§9927. Decisions; Notice

A. The final decision of the board in an adjudication proceeding shall, if adverse to the respondent, and otherwise may be, in writing, shall include findings of fact and conclusions of law, and shall be signed by the presiding officer of the hearing panel on behalf and in the name of the board.

B. Upon issuance of a final decision, a certified copy thereof shall promptly be served upon respondent's counsel of record, or upon respondent personally in the absence of counsel, in the same manner of service prescribed with respect to service of complaints.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(B).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 16:510 (June 1990).

§9929. Rehearings

A. A decision by the board in a case of adjudication shall be subject to rehearing, reopening, or reconsideration by the board pursuant to written motion filed with the board within 10 days from service of the decision on respondent. A motion for rehearing, reopening, or reconsideration shall be made and served in the form and manner prescribed by 9909 and shall set forth the grounds upon which such motion is based, as provided by §9929.B.

B. The board may grant rehearing, reopening, or reconsideration if it is shown that:

1. the decision is clearly contrary to the law and the evidence;

2. the respondent has discovered since the hearing evidence important to the issues which he or she could not have with due diligence obtained before or during the hearing;

3. other issues not previously considered ought to be examined in order properly to dispose of the matter; or

4. there exists other good grounds for further consideration of the issues and the evidence in the public interest.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(B).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 16:510 (June 1990).

Chapter 111. Clinical Laboratory Personnel

§11101. Scope of Chapter

A. The rules of this Chapter prescribe the procedures governing the investigation of complaints, reports, and information evidencing legal cause under the Louisiana Clinical Laboratory Personnel law for the suspension, revocation, imposition of probation on, or other disciplinary action against persons holding licenses, certifications, or permits under the Louisiana Clinical Laboratory Personnel law and the initiation of formal enforcement proceedings and adjudication of administrative complaints by the Clinical Laboratory Personnel Committee and the Louisiana State Board of Medical Examiners.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1311-1329 and R.S. 37:1270(A)(5).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 22:195 (March 1996).

§11103. Definitions

A. As used in this Chapter, the following terms shall have the meanings specified.

Board the Louisiana State Board of Medical Examiners.

Committee the Clinical Laboratory Personnel Committee to the Louisiana State Board of Medical Examiners, as established and constituted under R.S. 37:1314.

Law the Louisiana Clinical Laboratory Personnel Law, R.S. 37:1311-1329, as the same may be amended hereafter.

Licensee a person who holds a license, certification, or permit issued by the board, on the recommendation of the committee, under the law.

Respondent a licensee who has been named in an administrative complaint filed with the committee, alleging cause under the law for revocation, suspension, or the imposition of probation on the license, certification, or permit of the licensee.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1311-1329 and R.S. 37:1270(A)(5).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 22:196 (March 1996).

§11105. Investigation

A. Upon receipt of information, by complaint, report, or otherwise coming to its attention, which, if established as true, would constitute legal cause under the law for the revocation, suspension, or the imposition of probation on the license, certification, or permit of a licensee, the committee may designate one or more of its members, employees, or agents as "investigating officers," to conduct such investigation or inquiry as they may deem appropriate to determine whether there is probable cause to initiate formal administrative proceedings against the subject licensee. To obtain evidence of violations of the law or otherwise to aid in an investigation, investigating officers may request that the board issue and serve investigative subpoenas to obtain documents or sworn testimony by deposition.

B. Except to the extent that disclosure of an investigation to the subject licensee would, in the judgment of the investigating officers, prejudice the investigation, notice of the initiation and pendency of an investigation, stating the nature and basis of the information prompting the investigation, shall promptly be given in writing to the subject licensee, who shall be requested and given an opportunity to respond to the complaint or other information giving rise to the investigation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1311-1329 and R.S. 37:1270(A)(5).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 22:196 (March 1996).

§11107. Disposition of Investigation

A. If, having conducted an investigation, the investigating officers determine that there is probable cause to believe that a licensee has engaged or is engaging in conduct, acts or omissions constituting legal cause under the law for the revocation, suspension, or the imposition of probation on the license, certification, or permit of the subject licensee, the investigating officers shall file with the committee an administrative complaint against the licensee pursuant to §11109. Before filing an administrative complaint with the committee, the investigating officers shall give notice by mail to the subject licensee of the intent to file an administrative complaint, including a copy of the proposed complaint or statement of the facts or conduct which the investigating officers believe warrant the initiation of enforcement proceedings by administrative complaint, and the licensee shall be given a reasonable opportunity to show compliance with all lawful requirements for the retention of licensure and to persuade the investigating officers that an administrative complaint is not justified or warranted.

B. If, having conducted an investigation, the investigating officers determine that there is insufficient evidence to establish legal cause for formal action by the committee, the investigating officers may recommend to the committee that the investigation be dismissed or concluded without formal action.

C. Investigating officers may also recommend that an investigation be concluded or otherwise disposed of pursuant to consent order or other informal disposition which has been agreed to in writing by the licensee.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1311-1329 and R.S. 37:1270(A)(5).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 22:196 (March 1996).

§11109. Complaint

A. Proceedings to adjudicate an administrative enforcement action shall be initiated by the filing of a written administrative complaint with the committee. The complaint shall be signed by investigating officers appointed and designated by the committee with respect to the subject matter of the complaint and shall name the accused licensee as respondent in the proceedings.

B. The complaint shall set forth, in separately numbered paragraphs, a concise statement of the material facts and matters alleged and to be proven by the investigating officers including the facts giving rise the committee's jurisdiction over the respondent, the facts constituting legal cause under law for administrative action against the respondent, and the statutory or regulatory provisions alleged to have been violated by respondent. The complaint shall conclude with a request for the administrative sanction or other relief sought by the investigating officers and shall bear the name, address, and telephone number of complaint counsel, if any, engaged by the committee to present the case at evidentiary hearing before the committee. The complaint shall also contain the certificate of the investigating officer that the requirements of §11107.A of these rules and of R.S. 37:916.C have been satisfied.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1311-1329 and R.S. 37:1270(A)(5).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 22:196 (March 1996).

§11111. Notice of Hearing

A. Upon the filing of an administrative complaint pursuant to §11109, the committee shall docket the complaint and schedule the complaint for hearing before the committee not less than 45 days nor more than 180 days thereafter; provided, however, that such time may be lengthened or shortened as the committee determines may be

necessary or appropriate to protect the public interest or upon motion of the investigating officer or respondent pursuant to a showing of proper grounds. In the event that the respondent's license, permit, certification, or registration has been suspended by the board pending hearing on the recommendation of the committee, pursuant to R.S. 49:961.C, evidentiary hearing on the complaint shall be noticed and scheduled not more than 45 days after the filing of the complaint.

B. A written notice of the complaint and the time, date, and place of the scheduled hearing thereon shall be served upon the respondent by registered, return-receipt-requested mail, as well as by regular first class mail, at the most current address for the respondent reflected in the official records of the committee, or by personal delivery of the complaint to the respondent. The notice shall include a statement of the legal authority and jurisdiction under which the hearing is to be held and shall be accompanied by a certified copy of the administrative complaint.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1311-1329 and R.S. 37:1270(A)(5).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 22:196 (March 1996).

§11113. Response to Complaint; Notice of Representation

A. Within 15 days of service of the complaint, or such longer time as the committee, on motion of the respondent, may permit, the respondent may answer the complaint, admitting or denying each of the separate allegations of fact and of law set forth therein. Any matters admitted by respondent shall be deemed proven and established for purposes of adjudication. In the event that respondent does not file a response to the complaint, all matters asserted therein shall be deemed denied.

B. Any respondent may be represented in an adjudication proceeding before the committee by an attorney at law duly admitted to practice in any state. Upon receipt of service of a complaint pursuant to this Chapter, or thereafter, a respondent who is represented by legal counsel with respect to the proceeding shall, personally or through such counsel, give written notice to the committee of the name, address, and telephone number of such counsel. Following receipt of proper notice of representation, all further notices, complaints, subpoenas, orders, or other process related to the proceeding shall be served on respondent though his or her designated counsel of record.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1311-1329 and R.S. 37:1270(A)(5).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 22:197 (March 1996).

§11115. Pleadings, Motions; Service

A. All pleadings, motions, or other papers permitted or required to be filed with the committee in connection with a pending adjudication proceeding shall be filed by personal delivery at or by mail to the office of the committee and shall by the same method of delivery be concurrently served upon complaint counsel designated by the complaint, if filed by or on behalf of respondent, or upon respondent, through counsel of record, if any, if filed by complaint counsel.

B. All such pleadings, motions, or other papers shall be submitted on plain white, letter-size (8 1/2 by 11 inches) bond, with margins of at least one inch on all sides and text double-spaced except as to quotations and other matter customarily single-spaced, shall bear the caption and docket number of the case as it appears on the complaint and shall include the certificate of the attorney or person making the filing that service of a copy of the same has been effected in the manner prescribed by §11115.A.

C. The committee may refuse to accept for filing any pleading, motion, or other paper not conforming to the requirements of this Section.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1311-1329 and R.S. 37:1270(A)(5).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 22:197 (March 1996).

§11117. Prehearing Motions

A. Motions for continuance of hearing, for dismissal of the proceeding and all other prehearing motions shall be filed not later than 30 days following service of the complaint on the respondent or 15 days prior to the hearing, whichever is earlier. Each prehearing motion shall be accompanied by a memorandum which shall set forth a concise statement of the grounds upon which the relief sought is based and the legal authority therefor. A motion may be accompanied by an affidavit as necessary to establish facts alleged in support of the motion. Within 10 days of the filing of any such motion and memorandum or such shorter time as the committee may order, the investigating officers, through complaint counsel, may file a memorandum in opposition to or otherwise setting forth the investigating officers' position with respect to the motion.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1311-1329 and R.S. 37:1270(A)(5).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 22:197 (March 1996).

§11119. Motions for Continuance of Hearing

A. A motion for continuance of hearing shall be filed within the delay prescribed by §11117 of these rules, provided that the committee may accept the filing of a motion for continuance at any time prior to hearing upon a showing of good cause not discoverable within the time otherwise provided for the filing of prehearing motions.

B. A scheduled hearing may be continued by the committee only upon a showing by respondent or complaint counsel that there are substantial legitimate grounds that the hearing should be continued balancing the right of the respondent to a reasonable opportunity to prepare and present a defense to the complaint and the committee's responsibility to protect the public health, welfare, and safety. Except in extraordinary circumstances evidenced by

verified motion or accompanying affidavit, the committee will not ordinarily grant a motion to continue a hearing that has been previously continued upon motion of the same party.

C. If an initial motion for continuance is not opposed, it may be granted by the investigating officers.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1311-1329 and R.S. 37:1270(A)(5).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 22:197 (March 1996).

§11121. Disposition of Prehearing Motions

A. Any prehearing motion, other than an unopposed initial motion for continuance of hearing which may be granted by the investigating officers, shall be referred for decision to the presiding officer of the hearing panel designated with respect to the proceeding for ruling. The presiding officer, in his discretion, may refer any prehearing motion to the entire panel for disposition, and any party aggrieved by the decision of a presiding officer on a prehearing motion may request that the motion be reconsidered by the entire panel.

B. Prehearing motions shall ordinarily be ruled upon by the presiding officer or the hearing panel, as the case may be, on the papers filed, without hearing. On the written request of respondent or of complaint counsel, however, and on demonstration that there are good grounds therefor, the presiding officer may grant opportunity for hearing, by oral argument, on any prehearing motion.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1311-1329 and R.S. 37:1270(A)(5).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 22:198 (March 1996).

§11123. Subpoenas for Hearing

A. Upon request of the respondent or complaint counsel and compliance with the requirements of this Section, the executive director of the board shall sign and issue subpoenas in the name of the board requiring the attendance and giving of testimony by witnesses and the production of books, papers, and other documentary evidence at an adjudication hearing.

B. No subpoena shall be issued unless and until the party who wishes to subpoena the witness first deposits with the board a sum of money sufficient to pay all fees and expenses to which a witness in a civil case is entitled pursuant to R.S. 13:3661 and R.S. 13:3671. Witnesses subpoenaed to testify before the committee only to an opinion founded on special study or experience in any branch of science, or to make scientific or professional examinations, and to state the results thereof, shall receive such additional compensation from the party who wishes to subpoena such witnesses as may be fixed by the committee with reference to the value of the time employed and the degree of learning or skill required.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1311-1329 and R.S. 37:1270(A)(5).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 22:198 (March 1996).

§11125. Prehearing Conference

A. In any case of adjudication noticed and docketed for hearing, counsel for respondent and complaint counsel may agree, or the presiding officer may require, that a prehearing conference be held among such counsel, or together with the committee's independent counsel appointed pursuant to §11127.D hereof, for the purpose of simplifying the issues for hearing and promoting stipulations as to facts and proposed evidentiary offerings which will not be disputed at hearing.

B. Following such prehearing conference the parties shall, and without such conference the parties may by agreement, agree in writing on a prehearing stipulation which should include:

1. a brief statement by complaint counsel as to what such counsel expects the evidence to be presented against respondent to show;

2. a brief statement by respondent as to what the evidence and arguments in defense are expected to show;

3. a list of the witnesses to be called by complaint counsel and by respondent, together with a brief general statement of the nature of testimony each such witness is expected to give;

4. any stipulations which the parties may be able to agree upon concerning undisputed claims, facts, testimony, documents, or issues; and

5. an estimate of the time required for the hearing.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1311-1329 and R.S. 37:1270(A)(5).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 22:198 (March 1996).

§11127. Conduct of Hearing; Record

A. Unless requested by the respondent, adjudication hearings shall be conducted in closed session.

B. At an adjudication hearing, opportunity shall be afforded to complaint counsel and respondent to present evidence on all issues of fact and argument on all issues of law and policy involved, to call, examine, and cross-examine witnesses, and to offer and introduce documentary evidence and exhibits as may be required for a full and true disclosure of the facts and disposition of the complaint.

C. Unless stipulation is made between the parties, and approved by the hearing panel, providing for other means of recordation, all testimony and other proceedings of an adjudication shall be recorded by a certified stenographer who shall be retained by the board to prepare a written transcript of such proceedings.

D. During evidentiary hearing, the presiding officer shall rule upon all evidentiary objections and other procedural questions, but in his discretion may consult with the entire panel in executive session. At any such hearing, the committee may be assisted by legal counsel, retained by the committee for such purpose, who is independent of complaint counsel and who has not participated in the investigation or prosecution of the case. If the committee or panel is attended by such counsel, the presiding officer may delegate to such counsel ruling on evidentiary objections and other procedural issues raised during the hearing.

E. The record in a case of adjudication shall include:

1. the administrative complaint and notice of hearing, respondent's response to the complaint, if any, subpoenas issued in connection with discovery in the case or hearing of the adjudication, and all pleadings, motions, and intermediate rulings;

2. evidence received or considered at the hearing;

3. statement of matters officially noticed except matters so obvious that statement of them would serve no useful purpose;

4. offers of proof, objections, and rulings thereon;

5. proposed findings and exceptions, if any;

6. the decision, opinion, report, or other disposition of the case made by the committee.

F. Findings of fact shall be based exclusively on the evidence of record and on matters officially noticed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1311-1329 and R.S. 37:1270(A)(5).
HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 22:198 (March 1996).

§11129. Evidence

A. In an adjudication hearing, the committee, or the designated hearing panel thereof, may give probative effect to evidence which possesses probative value commonly accepted by reasonably prudent men in the conduct of their affairs. Effect shall be given to the rules of privilege recognized by law. The committee or panel may exclude incompetent, irrelevant, immaterial, and unduly repetitious evidence. Objections to evidentiary offers may be made and shall be noted in the record. Subject to these requirements, when a hearing will be expedited and the interests of the parties will not be prejudiced substantially, any part of the evidence may be received in written form.

B. All evidence, including records and documents in the possession of the committee which complaint counsel desires the committee to consider, shall be offered and made a part of the record, and all such documentary evidence may be received in the form of copies or excerpts, or by incorporation by reference. In case of incorporation by reference, the materials so incorporated shall be available for examination by the respondent before being received in evidence.

C. Notice may be taken of judicially cognizable facts and of generally recognized technical or scientific facts within the committee's professional knowledge. Parties shall be notified either before or during the hearing of the material noticed or sought by a party to be noticed, and they shall be afforded an opportunity to contest the material so noticed. The committee's professional experience, technical competence, and knowledge may be utilized in the evaluation of the evidence.

D. Any member of the committee serving as presiding officer in an adjudication hearing shall have the power to and shall administer oaths or affirmations to all witnesses appearing to give testimony, shall regulate the course of the hearing, set the time and place for continued hearings, fix the time for the filing of briefs and other documents, if any are required or requested, and may direct the parties to appear and confer to consider simplification of the issues.

E. Except as otherwise governed by the provisions of these rules, adjudication hearings before the committee shall be governed by the Louisiana Code of Evidence, insofar as the same may be applied.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1311-1329 and R.S. 37:1270(A)(5).
HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 22:199 (March 1996).

§11131. Informal Disposition

A. The committee may recommend to the board an informal disposition, by default, consent order, agreement, settlement, or otherwise of any adjudication pending before it. A consent order shall be considered by the committee only upon the recommendation of the investigating officers.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1311-1329 and R.S. 37:1270(A)(5).
HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 22:199 (March 1996).

§11133. Recommended Decisions; Notice

A. The recommended decision of the committee in an adjudication proceeding shall be set forth in writing, shall include findings of fact and conclusions of law, and shall be signed by the presiding officer of the hearing panel on behalf and in the name of the committee.

B. Upon issuance of a recommended decision, a certified copy thereof shall promptly be served upon respondent's counsel of record, or upon respondent personally in the absence of counsel, in the same manner of service prescribed with respect to service of complaints.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1311-1329 and R.S. 37:1270(A)(5).
HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 22:199 (March 1996).

§11135. Rehearings

A. A recommended decision by the committee in a case of adjudication shall be subject to rehearing, reopening, or reconsideration by the committee pursuant to written motion filed with the committee within 10 days from service of the recommended decision on respondent. A motion for rehearing, reopening, or reconsideration shall be made and served in the form and manner prescribed by §11115 and shall set forth the grounds upon which such motion is based, as provided by §11135.B.

B. The committee may grant rehearing, reopening, or reconsideration if it is shown that:

1. the recommended decision is clearly contrary to the law and the evidence;

2. the respondent has discovered since the hearing evidence important to the issues which he or she could not have with due diligence obtained before or during the hearing;

3. other issues not previously considered ought to be examined in order properly to dispose of the matter; or

4. there exists other good grounds for further consideration of the issues and the evidence in the public interest.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1311-1329 and R.S. 37:1270(A)(5).
HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 22:199 (March 1996).

§11137. Effect of Recommended Decision; Appeal to Board

A. A recommended decision of the committee shall be adopted by the board and become final and effective, subject to appeal as hereinafter provided, 20 days after the date of its service on the respondent if no rehearing has been sought or 20 days after the committee issues its decision following a timely request for rehearing or reconsideration, whichever is later.

B. A recommended decision of the committee which is timely appealed shall not become effective as to the respondent until such recommended decision is adopted by the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1311-1329 and R.S. 37:1270(A)(5).
HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 22:200 (March 1996).

§11139. Appeal of Recommended Decision

A. A respondent may appeal a recommended decision of the committee by giving written notice of intent to appeal to the board, the committee, and the investigating officers prior to the date on which such recommended decision would become final pursuant to §11137.A.

B. Upon receipt of a notice of appeal, the committee shall promptly transmit to the board the entire hearing record.

C. Following service of notice of appeal, on such date as may be designated by the board, the respondent and the investigating officers shall appear before the board, in person or through legal counsel and/or other representative, and shall be entitled to make such relevant representations and arguments as they deem appropriate.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1311-1329 and R.S. 37:1270(A)(5).
HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 22:200 (March 1996).

§11141. Conduct of Appeal before Board

A. A respondent who fails without good cause, as determined by the board, to appear and proceed at appeal proceedings shall be deemed to have waived his right to appeal.

B. Appeal of a recommended decision of the committee shall be confined to the record of the hearing and the issues addressed and determined therein.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1311-1329 and R.S. 37:1270(A)(5).
HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 22:200 (March 1996).

§11143. Decision by Board

A. The board shall adopt the recommended decision of the committee as its own if the respondent has not appealed such decision.

B. Upon appeal of a recommended decision of the committee, the board shall consider the entire hearing record together with the representations and arguments made before it by the respondent and the investigating officers and render its decision thereon as soon as practicable following conclusion of the appeal proceedings.

C. The board may affirm and adopt, reverse, or modify and adopt the recommended decision of the committee.

D. The decision of the board shall be given in writing, including a statement of the basis and reasons for the decision, dated and subscribed by the president of the board or other presiding officer. A copy of the decision shall be served on the respondent by certified mail, return-receipt-requested, and delivered to the investigating officers and the committee.

E. The decision of the board shall become final and effective 10 days after the date of its service on the respondent, subject to reconsideration by the board as hereinafter provided.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1311-1329 and R.S. 37:1270(A)(5).
HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 22:200 (March 1996).

§11145. Reconsideration on Appeal

A. A decision by the board pursuant to a recommended decision by the committee in a case of adjudication shall be subject to reconsideration by the board pursuant to written motion filed with the board within 10 days from service of the board's decision on respondent. A motion for reconsideration shall be made and served in the form and manner prescribed by §11115 and shall set forth the grounds upon which such motion is based, as provided by §11145.B.

B. The board may grant reconsideration if it is shown that:

1. the decision is clearly contrary to the law and the evidence;

2. other issues not previously considered ought to be examined in order properly to dispose of the matter; or

3. there exists other good grounds for further consideration of the issues and the evidence in the public interest.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1311-1329 and R.S. 37:1270(A)(5).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 22:200 (March 1996).

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