

I. EXECUTIVE ORDERS
 JBE 19-1 Carry-Forward Bond Allocation 2018 192

II. EMERGENCY RULES
Agriculture and Forestry
 Office of Agricultural and Environmental Sciences—Certification of Commercial Applicators (LAC 7:XXII.711).... 193
 Citrus Greening Quarantine (LAC 7:XV.127) 193
 Guava Root Knot Quarantine (LAC 7:XV.171) 194
 Proficiency Testing (LAC 7:XXV.113 and 117) 195
 Office of the Commissioner—Medical Marijuana Program (LAC 7:XLIX.2303) 196

Children and Family Services
 Licensing Section—State Central Registry—Child Placing Agencies—General Provisions
 (LAC 67:V.Chapter 73) 197
 State Central Registry—Juvenile Detention Facilities (LAC 67:V.Chapter 75) 202

Governor
 Board of Examiners for New Orleans and Baton Rouge Steamship Pilots—Standards of Conduct
 (LAC 46:LXX.6311) 208

Public Safety and Corrections
 Corrections Services—Administrative Remedy Procedure (LAC 22:I.325) 209

Wildlife and Fisheries
 Wildlife and Fisheries Commission—Oyster Harvest Reopening—East Portion of Calcasieu Lake 214
 Public Oyster Seed Grounds Closure—East of the Mississippi River 215
 Shrimp Season Closure—Portions of State Inside Waters 215

Workforce Commission
 Office of Unemployment Insurance Administration—Excepted Federal Employees Performing Services
 during Government Shutdown (LAC 40:IV.381) 216

III. RULES
Children and Family Services
 Division of Child Welfare—Criminal Background and State Central Registry Checks; State Repository,
 Central Registry and Administrative Appeal (LAC 67:I.203 and 67:V.1103, 1105 and 1111) 217

Economic Development
 Office of the Secretary—Research and Development Tax Credit Program (LAC 13:I.Chapter 29) 218

Education
 Board of Elementary and Secondary Education— Bulletin 111—The Louisiana School, District, and State
 Accountability System—English Language Proficiency—Measure of Progress (LAC 28:XI.405 and 409) .. 221
 Bulletin 129—The Recovery School District—Budget Reporting (LAC 28:CXLV.1103 and 1105)..... 223
 Bulletin 137—Louisiana Early Learning Center Licensing Regulations—Owners, Directors and Director
 Designees of Type III Early Learning Centers—Fraud and Felony Limitations (LAC 28:CLXI.Chapter 18) . 224
 Bulletin 741—Louisiana Handbook for School Administrators—Home Study Programs
 (LAC 28:CXV.Chapter 33)..... 225
 Bulletin 741—Louisiana Handbook for School Administrators—STEM Diploma Endorsements
 (LAC 28:CXV.2317)..... 227
 Bulletin 746—Louisiana Standards for State Certification of School Personnel—PRAXIS Scores,
 Endorsements, and Certification—Mathematics (LAC 28:CXXXI.203, 348 and 648) 227
 Mentor Teacher and Content Leader Credentials (LAC 28:XLV.303, 401, 743, and 747;
 CXXXI.203, 240, Chapter 3, Chapter 7 and 1001; CXXXVII.301; and CXLVII.101 and Chapter 3) 228
 Teaching Authorizations (LAC 28:CXXXI.906) 234

Environmental Quality
 Office of the Secretary—Legal Affairs and Criminal Investigations Division—Closure Requirements
 for Surface Impoundments (LAC 33:VII.115 and 713)(SW064) 234

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Governor

Boxing and Wrestling Commission—Boxing and Wrestling Standards (LAC 46:XI.Chapters 1 and 3)..... 236
Division of Administration, Racing Commission—Permitted Medications in Quarter Horses (LAC 35:I.1506) 247
Preference for Eliminated Horses (LAC 35:V.6336)..... 247
Office of Financial Institutions—Interested Party Petitions (LAC 10:XVII.503) 247

Health

Board of Nursing—Disciplinary Proceedings (LAC 46:XLVII.3405) 248
Board of Speech-Language Pathology and Audiology—Speech-Pathology and Audiology
(LAC 46:LXXV.Chapters 1-7) 249
Bureau of Health Services Financing—Behavioral Health Services—Substance Use Disorders Services
(LAC 50:XXXIII.14101, 14301, 14303 and 14501)..... 270
Healthy Louisiana Opioid Use Disorder/Substance Use Disorder Waiver (LAC 50:XXII.Chapters 61-69)..... 271
Intermediate Care Facilities for Individuals with Intellectual Disabilities—Public Facilities Transitional
Rate Extension (LAC 50:VII.32915 and 32969) 273
Managed Care Organization Payment Accountability and Provider Credentialing (LAC 50.I.1505) 273
Nursing Facilities—Reimbursement Methodology—Case-Mix Documentation Reviews and Index
Reports (LAC 50:II.20013) 274
Nursing Facilities—Reimbursement Methodology—Transition of Private Facilities to State-Owned or
Operated Facilities through Change of Ownership (LAC 50:II.20023 and 20024) 275
Licensed Professional Counselors Board of Examiners—Criminal History Records (LAC 46:LX.Chapter 4)..... 275
Provisional Licensed Professional Counselor Licensure Requirements (LAC 46:LX.603 and 605)..... 276
Office of Behavioral Health—Behavioral Health Services—Substance Use Disorders Services
(LAC 50:XXXIII.14101, 14301, 14303 and 14501)..... 270
Healthy Louisiana Opioid Use Disorder/Substance Use Disorder Waiver (LAC 50:XXII.Chapters 61-69)..... 271

Insurance

Office of the Commissioner—Regulation 46—Long-Term Care Insurance Policy Definition
(LAC 37:XIII.Chapter 19)..... 279

Public Safety and Corrections

Office of Motor Vehicles—Hang Tags for Mobility Impaired Individuals (LAC 55:III.Chapter 21) 279
Office of State Police—Explosives Code (LAC 55:I.Chapter 15) 281

Wildlife and Fisheries

Office of Fisheries—Removal of Abandoned Crab Traps (LAC 76:VII.367)..... 281
Wildlife and Fisheries Commission—Removal of Abandoned Crab Traps (LAC 76:VII.367)..... 281

IV. NOTICES OF INTENT

Children and Family Services

Child Support Enforcement Section—Criminal History Records Checks for Access to Federal Tax Information
(LAC 67:I.205)..... 284
Licensing Section—State Central Registry—Juvenile Detention Facilities (LAC 67:V.Chapter 75) 285

Environmental Quality

Office of the Secretary, Legal Affairs and Criminal Investigation Division—Recycling Tax Credit Reduction
(LAC 33:VII.10415)(SW065) 286
Waste Tire Fees (LAC 33:VII.10519, 10521 and 10535)(SW066) 287

Governor

Board of Professional Geoscientists—Use of Seals (LAC 46:LXII.1501) 289

Health

Bureau of Health Services Financing—Direct Service Worker Registry (LAC 48:I.Chapter 92) 291
Pharmacy Benefits Management Program—Federal Upper Payment Limits and Physician-Administered
Drugs Reimbursement (LAC 50:XXIX.105 and 949) 295
Support Coordination Providers—Licensing Standards (LAC 48:I.Chapter 49) 298
Licensed Professional Vocational Rehabilitation Counselors Board of Examiners—Professional Ethics
(LAC 46:LXXXVI.Chapter 1, Chapter 3 and Chapter 16) 315
Office of Public Health—Disease Reporting Requirements; Public Health Immunization Requirements; and
Anti-Rabies Vaccination Requirements for Dogs and Cats (LAC 51:II.Chapter 1 and III.Chapter 1)..... 318

Insurance

Office of the Commissioner—Regulation 89—Suitability in Annuity Transactions (LAC 37:XIII.Chapter 117) 324

Public Safety and Corrections	
Corrections Services—Administrative Remedy Procedure (LAC 22:I.325)	328
Lost Property Claims (LAC 22:I.369)	328
Gaming Control Board—Gaming Operations Relocation (LAC 42:III.2401)	329
Non-Gaming Suppliers (LAC 42:III.2108)	330
State	
Elections Division—Voter Registration at Driver’s License Facilities (LAC 31:II.303-313).....	332
Wildlife and Fisheries	
Wildlife and Fisheries Commission—Dredging (LAC 76:XIII.101)	335
V. POTPOURRI	
Health	
Licensed Professional Counselors Board of Examiners—Hearing Notice.....	339
Natural Resources	
Office of the Secretary—Hearing Notice.....	339
VI. INDEX	340

Executive Orders

EXECUTIVE ORDER JBE 19-01

Carry-Forward Bond Allocation 2018

WHEREAS, pursuant to the Tax Reform Act of 1986 and Act 51 of the 1986 Regular Session of the Louisiana Legislature (hereafter “Act”), Executive Order Number JBE 2016-35 was issued to establish a method for allocating bonds subject to private activity bond volume limits, including

(1) the method of allocating bonds subject to the private activity bond volume limits for the calendar year 2016 and subsequent calendar years;

(2) the procedure for obtaining an allocation of bonds under The ceiling; and

(3) a system of central record keeping for such allocations;

WHEREAS, Section 4(H) of Executive Order Number JBE 2016-35 provides that if the ceiling for a calendar year exceeds the aggregate amount of bonds subject to the private activity bond volume limit issued during the year by all issuers, by executive order, the Governor may allocate the excess amount to issuers or an issuer for use as a carry-forward for one or more carry-forward projects permitted under the Act;

WHEREAS, the sum of four hundred eighty-nine million six hundred twenty-four thousand nine hundred sixty-five dollars (\$489,624,965) represents the amount of the ceiling determined by the staff of the Louisiana State Bond Commission (“SBC”) for private activity bond volume limits for the year 2018 (“2018 Ceiling”);

WHEREAS, four hundred eighty-nine million six hundred twenty-four thousand nine hundred sixty-five dollars (\$489,624,965) of the 2018 Ceiling was not allocated during the 2018 calendar year; and

WHEREAS, the SBC has determined that four hundred eighty-nine million six hundred twenty-four thousand nine hundred sixty-five dollars (\$489,624,965) of the 2018 Ceiling is eligible for carry-forward, of which eighty-five million dollars (\$85,000,000) has been approved by the SBC and is pending allocation, leaving four hundred four million six hundred twenty-four thousand nine hundred sixty-five dollars (\$404,624,965) of the excess 2018 Ceiling eligible and the Governor desires to allocate this amount as carry-forward for projects which are permitted and eligible under the Act.

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

SECTION 1: Pursuant to and in accordance with the provisions of Section 146(f) of the Internal Revenue Code of 1986, as amended, and in accordance with the request for carry-forward filed by the designated issuer, the excess private activity bond volume limit under the 2018 Ceiling is hereby allocated to the following issuer(s), for the following carry-forward project(s), and in the following amount(s):

Issuer	Carry-Forward Project	Carry-Forward Amount
Louisiana Community Development Authority	American Biocarbon CT, LLC Project	\$60,000,000
Louisiana Housing Corporation	Single Family Housing	\$35,000,000
Louisiana Housing Corporation	Multifamily Housing	\$35,000,000
Jefferson Parish Finance Authority	Single Family Housing	\$15,000,000
Lake Charles Harbor and Terminal District	Big Lake Fuels, LLC	\$324,000,000
Louisiana Public Facilities Authority	Sewage Facilities	\$20,624,965

SECTION 2: All references in this Order to the singular shall include the plural, and all plural references shall include the singular.

SECTION 3: This Order is effective upon signature and shall remain in effect until amended, modified, terminated, or rescinded by the Governor, or terminated by operation of law.

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of the State of Louisiana, at the Capitol, in the City of Baton Rouge, on this 31st day of January 2019.

John Bell Edwards
Governor

ATTEST BY
THE GOVERNOR
R. Kyle Aroin
Secretary of State
1902#062

Emergency Rules

DECLARATION OF EMERGENCY

Department of Agriculture and Forestry
Office of Agricultural and Environmental Sciences

Citrus Greening Quarantine
(LAC 7:XV.127)

In accordance with the emergency provisions of the Administrative Procedure Act, La. R.S. 49:953(B), and pursuant to the authority of the state entomologist in R.S. 3:1652, notice is hereby given that Department of Agriculture and Forestry is adopting these emergency regulations establishing a quarantine for citrus greening disease (“CG”), also known as Huanglongbing disease of citrus, caused by the bacterial pathogen *Candidatus Liberibacter* spp. The state entomologist has determined that CG has been found in this state and may be prevented, controlled, or eradicated by quarantine.

CG poses an imminent peril to the health and welfare of the Louisiana commercial citrus industry due to its ability to infest rutaceous plants. This industry has a farm value of \$2.4-\$5 million in southeastern Louisiana in the form of citrus nursery stock, and \$5.1 million in the form of commercial citrus fruit in the state. CG renders the fruit unmarketable and ultimately causes death of infested plants. Failure to prevent, control, or eradicate this pest threatens to destroy Louisiana’s commercial citrus industry and the growing and harvesting of citrus by citizens of Louisiana for their own private use.

Louisiana’s commercial citrus industry adds \$7.5 - \$10 million dollars to the state’s agriculture economy each year. Sales of citrus trees and plants by nursery stock dealers to private individuals also are important to the state’s economy. The loss of the state’s commercial citrus industry and privately owned citrus trees and fruit would be devastating to the state’s economy and to its private citizens. The quarantine established by this emergency regulation is necessary to prevent the spread of CG in Louisiana outside of the current areas where this disease has already been found.

For these reasons, the outbreak CG in Louisiana presents an imminent peril to the health, safety and welfare of Louisiana’s citizens and the state’s commercial and private citrus industry. As a result of this imminent peril, the Department of Agriculture and Forestry hereby exercises its full and plenary power pursuant to R.S. 3:1652 to deal with crop and fruit pests and contagious and infectious crop and fruit diseases by imposing the quarantines set out in these emergency regulations.

This Rule shall have the force and effect of law upon signature, and will remain in effect 120 days, unless renewed by the Commissioner of the Department of Agriculture and Forestry or until permanent rules are promulgated in accordance with law.

Title 7

AGRICULTURE AND ANIMALS

Part XV. Plant Protection and Quarantine

Chapter 1. Crop Pests and Diseases

Subchapter B. Nursery Stock Quarantines

§127. Citrus Nursery Stock, Scions and Budwood

A. - C. ...

D. Citrus Greening

1. ...

2. Quarantined Areas. The quarantined areas in this state are the parishes of Orleans, Washington, Jefferson, St. Bernard, Plaquemines, and any other areas found to be infested with CG. The declaration of any other specific parishes or areas shall be published in the official journal of the state and in the *Louisiana Register*.

D.3.- G.3. ...

AUTHORITYNOTE: Promulgated in accordance with R.S. 3:1652.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Office of Agricultural and Environmental Sciences, LR 11:320 (April 1985), amended by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, LR 40:1308 (July 2014), LR 42:730 (May 2016), LR 44:439 (March 2018), LR 45:

Mike Strain DVM
Commissioner

1902#019

DECLARATION OF EMERGENCY

Department of Agriculture and Forestry
Office of Agriculture and Environmental Sciences

Certification of Commercial Applicators (LAC 7:XXII.711)

In accordance with the emergency provisions of the Administrative Procedure Act, R.S. 49:953(B), the Commissioner of Agriculture and Forestry declares an emergency to exist and adopts by emergency process the attached regulation requiring proficiency testing for all commercial applicators in 2018 and 2019. R.S. 3:3203(A) provides that the “commissioner shall adopt such rules and regulations as are necessary to implement the provisions of this Chapter, including but not limited to rules and regulations governing the registration, distribution, sale, offering for sale, and application of pesticides...” Additionally, R.S. 3:3242 provides that the “commissioner by rule shall provide for the issuance of annual certification cards.” In order to be in compliance with state and federal laws regarding testing and licensure, the commissioner believes proficiency testing is necessary to protect the health and safety of the public. This Emergency Rule was initially published at LR 43:9.

This Emergency Rule shall become effective upon signature, and shall remain in effect for 120 days, unless renewed or until the permanent rules and regulations become effective.

Title 7
AGRICULTURE AND ANIMALS
Part XXIII. Pesticides

Chapter 7. Examinations, Certification and Licensing

Subchapter B. Certification

§711. Certification of Commercial Applicators

A. - E. ...

F. The commissioner shall issue a certification card to each commercial applicator showing the categories or subcategories in which the applicator is certified. This certification card shall expire on December 31 of each year. Each person wishing to renew a certification card shall do so by submitting an application form prescribed by the commissioner and by submitting the proper fee.

1. In order to renew a certification card, a commercial applicator shall take and pass a commercial applicator proficiency test. All commercial applicators who have not passed the commercial applicator proficiency test on or by December 31, 2017, shall take and pass the commercial applicator proficiency test before their renewal application and/or recertification will be processed.

G. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3203, R.S. 3:3242 and R.S. 3:324.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Advisory Commission on Pesticides, LR 9:179 (April 1983), amended LR 10:193 (March 1984), amended by the Department of Agriculture and Forestry, Office of Agriculture and Environmental Sciences, LR 18:953 (September 1992), LR 19:735 (June 1993), LR 20:641 (June 1994), LR 21:928 (September 1995), amended by the Department of Agriculture and Forestry, Office of Agriculture and Environmental Sciences, Advisory Commission on Pesticides, LR 23:193 (February 1997), LR 24:280 (February 1998), LR 28:39 (January 2002), LR 32:794 (May 2006), repromulgated LR 32:1011 (June 2006), amended LR 35:627 (April 2009), amended by Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Advisory Commission on Pesticides, LR 37:3471 (December 2011), LR 45:

Mike Strain, DVM
Commissioner

1902#013

DECLARATION OF EMERGENCY

Department of Agriculture and Forestry
Office of Agricultural and Environmental Sciences

Guava Root Knot Quarantine (LAC 7:XV.171)

In accordance with the emergency provisions of the Administrative Procedures Act, La. R.S. 49:953 (B), and the authority of the state entomologist under the provisions of R.S. 3:1652, and in order to avoid a lapse in coverage until the Permanent Rule is in effect, notice is hereby given that Department of Agriculture and Forestry is adopting These emergency regulations establishing a quarantine for the following pest: Guava Root Knot Nematode, *Meloidogyne enterolobii*. The state entomologist has determined that Guava Root Knot Nematode has been found in this state and may be prevented, controlled, or eradicated by quarantine. The effective date of this Rule is upon signature.

Guava Root Knot Nematode (GRKN) poses an imminent threat to the health and welfare of Louisiana's sweet potato, sugarcane, cotton, and soybean industries. In 2017, the total value of sweet potato production, including value added was \$92.6 million (Louisiana State University AgCenter 2017 Louisiana Summary, Agriculture and Natural Resources). Sugarcane is also a host for GRKN. The gross farm value for sugarcane in Louisiana was \$589.3 million and the total value of the sugarcane crop to producers, processors, etc. at the first processing level was \$989.5 million (LSU AgCenter 2017 Louisiana Summary, Agriculture and Natural Resources). The gross farm value for cotton in Louisiana was \$139.7 million and the total value of cotton production was \$210.1 million (LSU AgCenter 2017 Louisiana Summary, Agriculture and Natural Resources). The gross farm value for soybeans in Louisiana was \$679.4 million and when value-added activities are included the total economic impact of the soybean industry is estimated at \$798.2 million (LSU AgCenter 2017 Louisiana Summary, Agriculture and Natural Resources).

In addition to the aforementioned crops, GRKN is also a threat to the nursery and commercial vegetable industries. The gross value of commercial nursery production was \$107.1 million and the total value of nursery production was \$166.04 million (LSU AgCenter 2017 Louisiana Summary, Agriculture and Natural Resources). Commercial vegetable production's gross value in 2017 was \$79.4 million and the total value of commercial vegetable production was \$186.7 million (LSU AgCenter 2017 Louisiana Summary, Agriculture and Natural Resources).

Guava Root Knot Nematode has only been positively identified in a very small area of Louisiana but this pest could impact almost every agriculture related industry in Louisiana if it were to become established. GRKN has a wide host range of crops and also weeds that it infects. It also has a high rate of reproduction so the use of fumigants would only temporarily reduce the nematode's populations. In addition, GRKN has been found to attack the native Southern root knot nematode resistant varieties of cotton, tomato, pepper, soybean and sweet potato.

The natural dispersal of GRKN is limited to very short distances. However without quarantine restrictions, GRKN could spread through human assisted means over long distances through GRK infested sweet potatoes, nursery stock, and commercial farm equipment.

In other states where GRKN is found, sweet potatoes are not harvested because the potatoes are of such poor quality and shape that they cannot be sold. Also in some instances, only certain crops can be grown in GRKN infested soil limiting the farmer's ability to diversify their crops and markets.

For these reasons the presence of GRKN in Louisiana presents a peril to the integrity and stability of Louisiana's agriculture industries. As a result of this imminent peril, the Department of Agriculture and Forestry hereby exercises its full and plenary power pursuant to R.S. 3:1652 to deal with crop and fruit pests and contagious and infectious crop and fruit diseases by imposing the quarantines set out in these emergency regulations.

This Rule shall have the force and effect of law upon signature and will remain in effect 120 days, unless renewed

by the commissioner of agriculture and forestry or until permanent rules are promulgated in accordance with law.

Title 7

AGRICULTURE AND ANIMALS

Part XV. Plant Protection and Quarantine

Chapter 1. Crop Pests and Diseases

Chapter H. Guava Root Knot Nematode Quarantine

§171. Guava Root Knot Nematode Quarantine

A. The department issues the following quarantine because the state entomologist has determined that the Guava Root Knot Nematode, *Meloidogyne enterolobii*, has been found in this state and may be prevented, controlled, or eradicated by quarantine.

B. Quarantine Areas:

1. The States of Florida, North Carolina, and South Carolina.

2. a declaration of quarantine for guava root knot nematode covering any specific parish or area in Louisiana or any other state shall be published in the official journal of the state and in the *Louisiana Register*.

C. No regulated articles as defined in this Section shall be moved into any area of this state, except as provided in this Section.

D. The following articles are hosts of guava root knot nematode or may harbor guava root knot nematode and are deemed to be regulated articles for purposes of this Subsection:

1. the guava root knot nematode in all of its life stages; plant parts, specifically sweet potatoes, from Florida, North Carolina, and South Carolina that can harbor the guava root knot nematode; soil from the above-mentioned quarantined states that may harbor the guava root knot nematode; commercial planting and/or harvesting equipment from the above-mentioned quarantined states.

2. Certified seed sweet potatoes may be moved within the state from the quarantine area under a Special Permit issued by Louisiana Department of Agriculture and Forestry.

3. Nursery crops may not be moved within the state from the quarantine area, whether direct from said area or by diversion or reconsignment from any other point, unless each shipment or lot is accompanied by a certificate issued by the authorized agricultural official of the state, certifying the material to be free from guava root knot nematode.

4. any other article, product, or means of conveyance not listed in this Section may be designated as a regulated article if an inspector determines that it presents a risk of spreading guava root knot nematode and notifies the person in possession of the article, product, or means of conveyance that it is subject to the restrictions of the regulations.

E. Commercial planting and/or harvesting equipment may be moved from quarantined areas into Louisiana only if moved under the following conditions:

1. The commercial equipment being moved is accompanied by a state of origin certificate issued by the state regulatory agency.

2. The commercial equipment must be thoroughly cleaned of any soil and plant debris and inspected by the state regulatory agency. The state regulatory agency must issue a state phytosanitary certificate attesting to the inspection and cleaning of the equipment.

F. Any person violating this quarantine shall be subject to imposition of the remedies and penalties set forth in R.S. 3:1653.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1652, 3:1653.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, LR 45:

Mike Strain DVM
Commissioner

1902#063

DECLARATION OF EMERGENCY

Department of Agriculture and Forestry Office of Agricultural and Environmental Sciences

Proficiency Testing (LAC 7:XXV.113 and 117)

In accordance with the emergency provisions of the Administrative Procedure Act, R.S. 49:953(B), the Commissioner of Agriculture and Forestry and Louisiana Structural Pest Control Commission declare an emergency to exist and hereby adopt by emergency process the attached regulation requiring proficiency testing for all structural licensees and registered technicians. R.S. 3:3366 grants the Structural Pest Control Commission the authority to adopt rules and regulations "to protect the interests, health, safety, and welfare of the public." In order to be in compliance with state and federal laws regarding testing and licensure, the commissioner believes proficiency testing is necessary to protect the health and safety of the public. This Emergency Rule was initially published at LR 43:9-10.

This Emergency Rule shall become effective upon signature, and shall remain in effect for 120 days, unless renewed or until the permanent rules and regulations become effective.

Title 7

AGRICULTURE AND ANIMALS

Part XXV. Structural Pest Control

Chapter 1. Structural Pest Control Commission

§113. Registration of Employees; Duties of Licensee and Registered Employee with Respect to Registration

A. - O. ...

P. Each registered technician shall participate in an entire continuing education program as a condition of maintaining his or her status as a registered technician at least once annually (July 1 to June 30).

1. Each continuing education program, minimum of four hours of technical training, shall be approved in advance by the department.

2. Each continuing education program shall be a minimum of one hour in length per phase.

3. Documentation of the technician attendance and participation shall be forwarded to the department and a copy retained at the technician's place of employment.

4. All registered technicians must take and pass the registered technician examination and/or the structural pesticide proficiency test in order to maintain his or her

status as a registered technician. Any registered technician who has taken and passed the registered technician examination prior to January 1, 2017, but has not taken and passed the structural pesticide proficiency test on or by December 31, 2017, must take the structural pesticide proficiency test in order to maintain his or her status as a registered technician.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3366, 3368 and 3369.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Structural Pest Control Commission, LR 11:327 (April 1985), amended by the Department of Agriculture and Forestry, Structural Pest Control Commission, LR 15:956 (November 1989), LR 32:797 (May 2006), repromulgated LR 32:1016 (June 2006), amended LR 35:207 (February 2009), LR 37:279 (January 2011), amended by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Structural Pest Control Commission, LR 39:301 (February 2013), LR 42:213 (February 2016), LR 45:

§117. Obligations of the Licensee\Permittee

A. - D. ...

E. Maintenance of a Commercial Applicator Certification by a Licensee

1.a. A licensee shall maintain his commercial applicator certification in current status by:

i. attending a continuing educational program for recertification approved by the department;

ii. recertification at least once every three years; such recertification shall be completed by December 31 of the year preceding the third anniversary of either the original certification or the most recent recertification;

iii. a minimum of six hours of technical training which shall include but not limited to the phases of general pest control, termite control and commercial vertebrate control;

iv. a minimum of six hours of technical training for the phase of fumigation.

b. All structural licensees must take and pass the structural licensee examination and/or the structural pesticide proficiency test in order to maintain his or her commercial application certification. Any structural licensee who has taken and passed the structural licensee examination prior to January 1, 2017, but has not taken and passed the structural pesticide proficiency test on or by December 31, 2017, must take the structural pesticide proficiency test in order to maintain his or her Commercial application certification.

2. A licensee attending an approved recertification seminar shall attend the entire approved program; otherwise the licensee shall not be recertified at this approved seminar.

3. Time and location for each licensee recertification can be obtained by calling or writing to the department;

F. - Q. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3366 and 3:3368.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Structural Pest Control Commission, LR 11:327 (April 1985), amended by the Department of Agriculture and Forestry, Structural Pest Control Commission, LR 15:956 (November 1989), LR 21:930 (September 1995), LR 23:855 (July 1997), LR 26:2437 (November 2000), LR 29:1062 (July 2003), amended by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Structural Pest Control Commission, LR

30:196 (February 2004), LR 31:2761 (November 2005), LR 35:1468 (August 2009), LR 37:280 (January 2011), LR 39:301 (February 2013), LR 42:214 (February 2016), LR 45:

Mike Strain, DVM
Commissioner

1902#014

DECLARATION OF EMERGENCY

Department of Agriculture and Forestry Office of the Commissioner

Medical Marijuana Program (LAC 7:XLIX.2303)

In accordance with the emergency provisions of the Administrative Procedure Act, R.S. 49:953(B), and under the authority of R.S. 40:1046, the Commissioner of Agriculture and Forestry declares an emergency to exist and amends by emergency process the attached regulations for the handling, testing analyzing medical marijuana or product in its laboratory.

This Emergency Rule will allow the licensee to use the concentrate to make a final product while the concentrate is being tested.

The entire Subsection A is printed herein, which includes both the revisions for this Emergency Rule as well as revisions made in a prior (but still in effect) Emergency Rule.

This Emergency Rule becomes effective upon the signature of the Commissioner and shall remain in effect for 120 days, unless renewed or until permanent rules and regulations become effective.

Title 7

AGRICULTURE AND FORESTRY

Part XLIX. Medical Marijuana

Chapter 23. Laboratory Approval and Testing

§2303. Laboratory Testing

A. Each batch of medical marijuana concentrate and product shall be made available by the licensee for an employee of the department, an approved laboratory or otherwise independent sample collector to select a random and representative sample of sufficient volume to conduct required analyses, which shall be tested by the department's laboratory or an approved laboratory.

1. Medical marijuana concentrate shall pass all analysis limits for:

a. - e. ...

2. product shall not be released for delivery to a marijuana pharmacy for sale or consumption until it has passed all concentrate analysis limits and analysis limits for:

a. - c. ...

B. - K. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1046.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, LR 43:1266 (July 2017), amended LR 45:

Mike Strain DVM
Commissioner

1902#004

DECLARATION OF EMERGENCY

Department of Children and Family Services Licensing Section

State Central Registry—Child Placing Agencies
General Provisions (LAC 67:V.Chapter 73)

The Department of Children and Family Services (DCFS) has exercised the emergency provisions of the Administrative Procedure Act, R.S. 49:953 (B) to amend LAC 67: V, Subpart 8, Residential Licensing, Chapter 73, Child Placing Agencies—General Provisions, Sections 7305, 7307, 7311, 7313, 7315, and to promulgate Section 7308. This Emergency Rule shall be effective January 29, 2019, and shall remain in effect until April 1, 2019.

In accordance with R.S. 46:1414.1 of the 2017 Regular Legislative Session, any owner, current or prospective employee, contractor, or volunteer requesting licensure or licensed by the DCFS is prohibited from ownership or employment if that person's name is recorded on the state central registry as a perpetrator with a justified finding of child abuse and/or neglect. Each provider licensed by the DCFS shall submit a request for a state central registry check for all owners, staff, and volunteers prior to October 15, 2018.

The department considers emergency action necessary to ensure that no individual with a justified finding of child abuse and/or neglect listed on the state central registry owns, provides services for, or is employed in a facility licensed by DCFS.

Title 67
SOCIAL SERVICES
Part V. Child Welfare
Subpart 8. Residential Licensing
Chapter 73. Child Placing Agencies—General Provisions
§7305. Definitions

* * *

Owner or Operator—individual or juridical entity exercising direct or indirect control over a licensed entity.

1. For licensing purposes the following are considered owners:

a. *Individual Ownership*—individual and spouse who are listed on the Licensing application submitted and who have access to the children/youth in care of the provider and/or who receive services from the provider and/or who are present at any time on the agency premises when children/youth are present;

b. *Partnership*—all limited or general partners and managers who are listed on the Licensing application submitted and who have access to the children/youth in care and/or who receive services from the provider and/or is present at any time on the agency premises when children/youth are present;

c. *Church Owned, University Owned or Governmental Entity*—any clergy and/or board members who are listed on the Licensing application submitted and who have access to the children/youth in care of the provider

and/or who receive services from the provider and/or who is present at any time on the agency premises when children/youth are present;

d. *Corporation* (includes limited liability companies)—individual(s) who is registered as an officer with the Louisiana Secretary of State and/or listed on the Licensing application submitted and who has access to the children/youth in care of the provider and/or children/youth who receive services from the provider and/or is present at any time on the agency premises when children/youth are present;

* * *

Provider—an entity that is responsible for the placement of children in foster care to include the Department of Children and Family Services and any private child placing provider licensed by the department. All owners or operators of a facility, including the director of such facility.

* * *

Reasonable Suspicion—to have or acquire information containing specific and articulable facts indicating that an owner, operator, current or potential employee, or volunteer has been investigated and determined to be the perpetrator of abuse and/or neglect of a minor with a justified (valid) finding currently recorded on the state central registry.

* * *

State Central Registry (SCR)—repository that identifies individuals with certain justified (valid) findings of abuse and/or neglect of a child or children by the Department of Children and Family Services.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:477 and ACT 64 of the 2010 Regular Legislative Session.

HISTORICAL NOTE: Promulgated by the Department of Children and Family Services, Division of Programs, Licensing Section, LR 37:821 (March 2011), amended LR 42:221 (February 2016), amended by the Department of Children and Family Services, Licensing Section, LR 45:

§7307. Licensing Requirements

A. - G.1.d. ...

e. any validated instance of abuse and/or neglect as noted by inclusion on the state central registry if the owner is responsible or if the staff member who is responsible remains in the employment of the licensee;

f. - g. ...

h. provider refuses to allow the Licensing Section to perform mandated duties, i.e., denying entrance to the facility, lack of cooperation for completion of duties, intimidating or threatening DCFS staff, etc.;

i. knowingly permit an individual with a justified (valid) finding of child abuse and/or neglect to be on the premises without being directly supervised by another paid employee of the facility, who has not disclosed that their name appears with a justified (valid) finding prior to receipt of the official notification from Child Welfare that the individual is listed on the state central registry.

G.2. - L.6. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:477 and ACT 64 of the 2010 Regular Legislative Session.

HISTORICAL NOTE: Promulgated by the Department of Children and Family Services, Division of Programs, Licensing

Section, LR 37:823 (March 2011), amended by the Department of Children and Family Services, Licensing Section, LR 45:

§7308. State Central Registry

A. State Central Registry Checks for Owners

1. Prior to April 1, 2019, in accordance with R.S. 46:1414.1, all owners and operators affiliated with an agency were required to have on file a state central registry clearance form from child welfare stating that the owners/operators were not listed on the state central registry. No person recorded on any state's child abuse and neglect registry with a justified (valid) finding of abuse or neglect of a child shall be eligible to own, operate, or participate in the governance of a child placing agency.

a. When an individual is listed on the licensing application or the Secretary of State's website as an officer and does not have access to children/youth in care or children/youth who receive services from the provider and/or is not present at any time on the agency premises when children/youth are present, a DCFS approved attestation form signed and dated by the individual is acceptable in lieu of a state central registry clearance. The attestation form shall be accepted for a period of one year from the date individual signed attestation form.

2. Prior to April 1, 2019, all owners and operators affiliated with an agency were required to have on file a clearance from any other state's child abuse and neglect registry in which the owner/operator resided within the proceeding five years. No person recorded on any state's child abuse and neglect registry with a justified (valid) finding of abuse and/or neglect of a child was eligible to own, operate, or participate in the governance of the child placing agency.

3. In accordance with R.S. 46:1414.1, an inquiry of the state central registry for all owners and operators shall be conducted prior to a license being issued or if currently licensed, prior to the addition of a new board member who meets the definition of an owner. The Louisiana state central registry clearance form shall be dated no earlier than 45 days prior to the license being issued or the addition of a new board member who meets the definition of an owner. For states other than Louisiana, clearance forms shall be dated no earlier than 120 days prior to the license being issued or the addition of a new board member who meets the definition of an owner. No person who is recorded on any state's child abuse and neglect registry with a valid justified (valid) finding of abuse or neglect of a child shall be eligible to own, operate, or participate in the governance of the child placing agency.

a. When an individual is listed on the licensing application or the Secretary of State's website as an officer and does not have access to children/youth in care or children/youth who receive services from the provider and/or is not present at any time on the agency premises when children/youth are present, a DCFS approved attestation form signed and dated by the individual is acceptable in lieu of a state central registry clearance. The attestation form shall be accepted for a period of one year from the date individual signed the attestation form.

4. If an owner/operator resided in another state within the proceeding five years, provider shall request a check and obtain clearance information from that state's child abuse

and neglect registry prior to the license being issued or if currently licensed, prior to the addition of a new board member who meets the definition of an owner. No person who is recorded on any state's child abuse and neglect registry with a justified (valid) finding of abuse and/or neglect of a child shall be eligible to own, operate, or participate in the governance of a child placing agency.

a. If the provider requests an out-of-state state central registry check and that state advises that they are unable to process the request due to statutory limitations, documentation of such shall be kept on file.

5. Upon notification from child welfare that an owner/operator(s) is not listed on the state central registry, the provider shall maintain on file the child welfare notification that the owner's name does not appear on the registry with a justified (valid) finding of abuse and/or neglect.

6. A request for a state central registry clearance shall be submitted by provider for all owners/operators to child welfare every five years prior to the date noted on the state central registry clearance notification and at any time upon the request of DCFS if reasonable suspicion exists that an individual may be listed on the state central registry.

7. If the owner/operator receives a justified (valid) finding after receiving notification from child welfare that he was not listed on the state central registry and the owner/operator advises the provider prior to his/her appeal rights being exhausted, licensing shall be notified within 24 hours or no later than the next business day, whichever is shorter.

a. The owner/operator shall be directly supervised by a paid staff (employee) of the child placing agency and at any and all times when he/she is in the presence of a child/youth. The employee responsible for supervising the individual must not be a suspected perpetrator with a justified (valid) determination of abuse and/or neglect.

b. Under no circumstances shall the owner/operator, with the justified (valid) finding of abuse and/or neglect, be left alone and unsupervised with a child/youth pending the official determination from child welfare that the individual is or is not listed on the state central registry.

8. Upon notification to the provider from child welfare that the owner/operator is listed on the state central registry, the owner/operator shall no longer be eligible to own, operate, or participate in the governance of the child placing agency. The owner/operator may voluntarily withdraw the application for licensure or if he/she chooses not to withdraw the application, the application shall be immediately denied. If the individual with the justified (valid) finding of abuse and/or neglect is a member of the child placing agency board, the provider shall submit a signed, dated statement to licensing within 24 hours or no later than the next business day indicating that the board member has resigned his position on the board or has been relieved of his position on the board with the effective date of the resignation/removal. Within seven calendar days, provider shall also submit to licensing documentation verifying that the individual's name has been removed from the Secretary of State's website if the CPA is owned/operated by a corporation. After receipt of the statement, the application for licensure may continue to be processed.

9. Any information received or knowledge acquired by a provider that a current owner is a perpetrator of abuse and/or neglect with a justified (valid) determination of abuse or neglect prior to receipt of official notification from child welfare, shall be immediately reported verbally to licensing management staff and followed up in writing no later than the close of business on the next business day. Prior to receipt of the official notification and immediately upon the knowledge that a justified (valid) finding has been issued by DCFS, the individual shall be directly supervised by a paid staff (employee) of the child placing agency, at any and all times when he/she is present on the premises and/or is in the presence of a child/youth. The employee responsible for supervising the individual must not be a suspected perpetrator with a justified (valid) determination of abuse and/or neglect. Under no circumstances shall the individual with the valid (justified) finding of abuse and/or neglect be left alone and unsupervised with a child/youth pending the official determination from child welfare that the individual is or is not listed on the state central registry.

10. State central registry clearances are not transferable from one owner to another.

B. State Central Registry Checks for Staff and Volunteers

1. Prior to employment, staff record shall contain a state central registry clearance form indicating that the staff (paid, non-paid, and volunteers) person is not listed on the state central registry with a justified finding of child abuse and/or neglect.

a. Prior to April 1, 2019, all staff were required to have on file a state central registry clearance form from child welfare noting that the staff person is not listed on the state central registry in accordance with R.S. 46:1414.1. No person who is recorded on any state's child abuse and neglect registry with a valid (justified) finding of abuse and/or neglect shall be eligible for employment in a licensed child placing agency.

b. Prior to April 1, 2019, all staff (paid, non-paid, and volunteers) were required to have on file a clearance from any other state's child abuse and neglect registry in which the staff (paid, non-paid, and volunteers) person resided within the preceding five years. No person who is recorded on any state's child abuse and neglect registry with a valid (justified) finding of abuse and/or neglect shall be eligible for employment in a licensed child placing agency.

c. In accordance with R.S. 46:1414.1, an inquiry of the state central registry for all staff (paid, non-paid and volunteer) shall be conducted prior to employment being offered to a potential hire. Staff (paid, non-paid, and volunteers) persons who have resided in another state within the preceding five years, provider shall request a check and obtain state central registry clearance from that state's child abuse and neglect registry. Louisiana state central registry clearance forms shall be dated no earlier than 45 days prior to the staff (paid, non-paid, and volunteers) being present on the premises or having access to children/youth. Other states state central registry clearance forms shall be dated no earlier than 120 days prior to the staff (paid, non-paid, and volunteers) being present on the premises or having access to children/youth. No person who is recorded on any state's child abuse and neglect registry with a valid (justified)

finding of abuse and/or neglect shall be eligible for employment in a licensed child placing agency.

i. If the provider requests an out-of-state state central registry check and that state advises that they are unable to process the request due to statutory limitations, documentation of such shall be kept on file.

d. Upon notification from child welfare that the staff (paid, non-paid, and volunteers) is not listed on the state central registry, the provider shall maintain on file the state central registry clearance form noting that the staff's (paid, non-paid, and volunteers) name does not appear on the registry with a justified (valid) finding of abuse and/or neglect. A request shall be submitted to child welfare every five years for staff (paid, non-paid, and volunteers) prior to the issue date noted on the state central registry clearance form and at any time upon the request of DCFS if reasonable suspicion exists that a staff (paid, non-paid, and volunteers) may be listed on the state central registry.

e. If after the initial state central registry clearance form is received by provider from child welfare noting that the staff (paid, non-paid, and volunteers) is not listed on the state central registry and due to a new valid finding, the staff (paid, non-paid, and volunteers) receives a subsequent notice that he/she is listed on the state central registry (issued after the provider was licensed) and advises the provider of the new information prior to their appeal rights being exhausted, licensing shall be notified within 24 hours or no later than the next business day, whichever is shorter. The staff (paid, non-paid, and volunteers) with the valid (justified) finding of abuse and/or neglect shall be directly supervised by another paid staff (employee) of the child placing agency, at any and all times when he/she is present on the premises and/or is in the presence of a child/youth. The employee responsible for supervising the individual shall not be suspected to be a perpetrator with a justified (valid) determination of abuse and/or neglect. Under no circumstances shall the staff (paid, non-paid, and volunteers) with the valid (justified) finding of abuse and/or neglect be left alone and unsupervised with a child/youth pending the official determination from child welfare that the individual is or is not listed on the state central registry.

f. Upon notification to the provider from child welfare that the staff (paid, non-paid, and volunteers) is listed on the state central registry, the staff (paid, non-paid, and volunteers) shall no longer be eligible for employment with the child placing agency. The provider shall submit a signed, dated statement to licensing within 24 hours, but no later than the next business day indicating that the staff (paid, non-paid, and volunteers) with the valid (justified) finding of abuse and/or neglect has been terminated. If this statement is not received by licensing within the aforementioned timeframe, the application shall be denied or license shall be immediately revoked.

g. Any information received or knowledge acquired by the provider that a current staff (paid, non-paid and volunteers) is a perpetrator of abuse and/or neglect with a justified (valid) determination of abuse or neglect prior to receipt of official notification from child welfare, shall be immediately reported verbally to licensing management staff (paid, non-paid, and volunteers) and followed up in writing no later than the close of business on the next business day.

Prior to receipt of the official notification and immediately upon the knowledge that a justified (valid) finding has been issued by DCFS, the individual shall be directly supervised by a paid staff (employee) of the child placing agency, at any and all times when he/she is present on the premises and/or is in the presence of a child/youth. The employee responsible for supervising the individual must not be suspected to be a perpetrator with a justified (valid) determination of abuse and/or neglect. Under no circumstances shall the individual with the valid (justified) finding of abuse and/or neglect be left alone and unsupervised with a child/youth pending the official determination from child welfare that the individual is or is not listed on the state central registry.

h. State central registry clearances are not transferable from one owner to another.

C. State Central Registry Checks for Contractors

1. Contractors who provide services to children/youth unaccompanied by paid staff or have access to children/youth unaccompanied by a paid staff shall have on file at the agency a state central registry clearance form which indicates that the contractor is not listed on any State Central registry with a valid finding of child abuse and/or neglect.

a. Prior to April 1, 2019, all contractors providing services to the child placing agency were required to have on file a state central registry clearance form from child welfare that the contractor is not listed on the state central registry in accordance with R.S. 46:1414.1. No person who is recorded on any state's child abuse and neglect registry with a valid (justified) finding of abuse and/or neglect shall be eligible for employment or provide services in a licensed child placing agency.

b. Prior to April 1, 2019, all contractors providing services to the child placing agency were required to have on file a clearance from any other state's child abuse and neglect registry in which the contractor resided within the proceeding five years. No person who is recorded on any state's child abuse and neglect registry with a valid (justified) finding of abuse and/or neglect shall be eligible for employment or provide services in a licensed child placing agency.

c. For individuals who have resided in another state within the proceeding five years, provider shall request a check and obtain clearance information from that state's child abuse and neglect registry prior to providing services or having access to children/youth.

i. If the provider requests an out-of-state state central registry check and that state advises that they are unable to process the request due to statutory limitations, documentation of such shall be kept on file.

d. Louisiana state central registry clearance forms shall be dated no earlier than 45 days prior to the individual providing services or having access to children/youth. Other state's state central registry clearance information shall be dated no earlier than 120 days prior to the individual providing services or having access to children/youth. No person who is recorded on any state's child abuse and neglect registry with a valid (justified) finding of abuse and/or neglect shall be eligible for employment in a licensed child placing agency.

e. Upon notification from child welfare that the individual is not listed on the state central registry, the provider shall maintain on file the state central registry clearance indicating that the individual's name does not appear on the registry with a justified (valid) finding of abuse and/or neglect. No person who is recorded on any state's child abuse and neglect registry with a valid (justified) finding of abuse and/or neglect shall be eligible to provide services in a licensed child placing agency.

f. A request shall be submitted to child welfare every five years for contractors prior to the issue date noted on the state central registry clearance form and at any time upon the request of DCFS if reasonable suspicion exists that a staff may be listed on the state central registry.

g. If after the initial state central registry clearance form is received by provider from child welfare noting that the individual is not listed on the state central registry and due to a new valid finding, the contractor receives a subsequent notice that he/she is listed on the state central registry (issued after the provider was licensed) and advises the provider of the new information prior to their appeal rights being exhausted, licensing shall be notified within 24 hours or no later than the next business day, whichever is shorter. The individual with the valid (justified) finding of abuse and/or neglect shall be directly supervised by a paid staff (employee) of the child placing agency at any and all times when he/she present on the premises and/or is in the presence of a child/youth. The employee responsible for supervising the individual must not be suspected to be a perpetrator with a justified (valid) determination of abuse and/or neglect. Under no circumstances shall the individual with the valid (justified) finding of abuse and/or neglect be left alone and unsupervised with a child/youth pending the official determination from child welfare that the individual is or is not listed on the state central registry.

h. Upon notification to the provider from child welfare that the contractor is listed on the state central registry, the individual shall no longer be eligible to provide services for the child placing agency. The provider shall submit a signed, dated statement to licensing within 24 hours or no later than the next business day indicating that the individual with the valid (justified) finding of abuse and/or neglect has been relieved of his duties with the child placing agency with the effective date of termination of services. If this statement is not received by licensing within the aforementioned timeframe, the license shall be immediately revoked.

i. Any information received or knowledge acquired by the provider that a current contractor is a perpetrator of abuse and/or neglect with a justified (valid) determination of abuse or neglect prior to receipt of official notification from child welfare, shall be immediately reported verbally to licensing management staff and followed up in writing no later than the close of business on the next business day. Prior to receipt of the official notification and immediately upon the knowledge that a justified (valid) finding has been issued by DCFS, the individual shall be directly supervised by a paid staff (employee) of the child placing agency, at any and all times when he/she is present on the premises and/or is in the presence of a child/youth. The employee

responsible for supervising the individual must not be suspected to be a perpetrator with a justified (valid) determination of abuse and/or neglect. Under no circumstances shall the individual with the valid (justified) finding of abuse and/or neglect be left alone and unsupervised with a child/youth pending the official determination from child welfare that the individual is or is not listed on the state central registry.

j. State central registry clearances are not transferable from one owner to another.

D. Reasonable Suspicion

1. Any information received or knowledge acquired by the provider that a current owner, contractor, volunteer and/or staff, is a perpetrator of abuse and/or neglect after October 1, 2018, with a justified (valid) determination of abuse or neglect prior to receipt of official notification from Child Welfare, shall be verbally reported to Licensing management staff immediately and followed up in writing no later than the close of business on the next business day. Prior to receipt of the official notification and immediately upon the knowledge that a justified (valid) finding has been issued by DCFS, the individual shall be directly supervised by a paid staff (employee) of the child placing agency, at any and all times when he/she is present on the premises and/or is in the presence of a child/youth. The employee responsible for supervising the individual shall not be suspected to be a perpetrator with a justified (valid) determination of abuse and/or neglect. Under no circumstances shall the individual with the valid (justified) finding of abuse and/or neglect be left alone and unsupervised with a child/youth pending the official determination from Child Welfare that the individual is or is not listed on the state central registry.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1414.1.

HISTORICAL NOTE: Promulgated by the Department of Children and Family Services, Licensing Section, LR 45:

§7311. Provider Responsibilities

A. - A.7.a.ii. ...

iii. have a state central registry notification form from Child Welfare as required in §7308.B.

A.8. - B.2.a.ix. ...

x. documentation of a state central registry clearance as required in §7308.B.

B.2.b. - H.2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:477 and ACT 64 of the 2010 Regular Legislative Session.

HISTORICAL NOTE: Promulgated by the Department of Children and Family Services, Division of Programs, Licensing Section, LR 37:828 (March 2011), amended LR 42:221 (February 2016), amended by the Department of Children and Family Services, Licensing Section, LR 45:

§7313. Foster Care Services

A. - A.3.a. ...

b. An inquiry of the state central registry for members of the household 18 years of age and older, excluding children in DCFS custody, shall be conducted prior to certification and annually thereafter. No person whose name is recorded on the state central registry with a valid (justified) finding of abuse or neglect of a child shall reside in the home.

c. If any member of the household 18 years of age or older resided in another state within the preceding five years, the provider shall request and obtain clearance information from that state's child abuse and neglect registry prior to certifying the foster/adoptive parents. Out of state clearances shall be requested and clearance information obtained after the application is received by the child placing agency and prior to certification and placement of a child in the home. No person whose name is recorded on any state central registry with a valid (justified) finding of abuse or neglect of a child shall reside in the home.

d. An inquiry of the state central registry shall be submitted within 30 calendar days of a household member, excluding children in DCFS custody, attaining their 18th birthday. No person who is recorded on any state's child abuse and neglect registry with a valid (justified) finding of abuse and/or neglect of a child can reside in the home.

e. Prior to any person 18 years or older moving into the home, excluding children in DCFS custody, a state central registry clearance shall be obtained. No person who is recorded on any state's child abuse and neglect registry with a valid (justified) finding of abuse and/or neglect of a child can reside in the home.

f. If an individual recorded on the state central registry is found to be living in the home, the children placed in the home shall be immediately removed and the foster/adoptive parents decertified.

g. The DCFS state central registry clearance form shall be dated no earlier than 45 days of the foster/adoptive parents being certified or household members over the age of 18 years being present in the home. Out-of-state clearance forms shall be dated no earlier than 120 days of foster/adoptive parents being certified.

h. If a foster/adoptive parent receives a valid finding after receiving a state central registry clearance form from child welfare indicating that he/she was not listed on the state central registry and the child placing agency is notified prior to the individual's appeal rights being exhausted, licensing shall be notified within 24 hours or no later than the next business day, whichever is shorter. The child placing agency shall follow the recommendations of the department regarding any DCFS children in the care of the foster/adoptive parents.

i. State central registry clearances are not transferable from one owner to another.

A.4. - C.5.b.vii. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:477 and Act 64 of the 2010 Regular Legislative Session.

HISTORICAL NOTE: Promulgated by the Department of Children and Family Services, Division of Programs, Licensing Section, LR 37:833 (March 2011), amended LR 38:985 (April 2012), LR 42:222 (February 2016), LR 42:1508 (September 2016), amended by the Department of Children and Family Services, Licensing Section, LR 45:

§7315. Adoption Services

A. - A.2.a. ...

b. An inquiry of the state central registry for members of the household 18 years of age and older, excluding children in DCFS custody, shall be conducted

prior to certification and annually thereafter. No person whose name is recorded on the state central registry with a valid (justified) finding of abuse or neglect of a child shall reside in the home.

c. If any member of the household 18 years of age or older resided in another state within the proceeding five years, the provider shall request and obtain clearance information from that state's child abuse and neglect registry prior to certifying the foster/adoptive parents. Out of state clearances shall be requested and clearance information obtained after the application is received by the child placing agency and prior to certification and placement of a child in the home. No person whose name is recorded on any state central registry with a valid (justified) finding of abuse or neglect of a child shall reside in the home.

d. An inquiry of the state central registry shall be submitted within 30 calendar days of a household member, excluding children in DCFS custody, attaining their 18th birthday. No person who is recorded on any state's child abuse and neglect registry with a valid (justified) finding of abuse and/or neglect of a child can reside in the home.

e. Prior to any person 18 years or older moving into the home, excluding children in DCFS custody, a state central registry clearance shall be obtained. No person who is recorded on any state's child abuse and neglect registry with a valid (justified) finding of abuse and/or neglect of a child can reside in the home.

f. If an individual recorded on the state central registry is found to be living in the home, the children placed in the home shall be immediately removed and the foster/adoptive parents decertified.

g. The DCFS state central registry clearance form shall be dated no earlier than 45 days of the foster/adoptive parents being certified or household members over the age of 18 years being present in the home. Out-of-state clearance forms shall be dated no earlier than 120 days of foster/adoptive parents being certified.

h. If a foster/adoptive parent receives a valid finding after receiving a state central registry clearance form from child welfare indicating that he/she was not listed on the state central registry and the child placing agency is notified prior to the individual's appeal rights being exhausted, licensing shall be notified within 24 hours or no later than the next business day, whichever is shorter. The child placing agency shall follow the recommendations of the department regarding any DCFS children in the care of the foster/adoptive parents.

i. State central registry clearances are not transferable from one owner to another.

A.3. - J.4.e. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:477 and Act 64 of the 2010 Regular Legislative Session.

HISTORICAL NOTE: Promulgated by the Department of Children and Family Services, Division of Programs, Licensing Section LR 37:842 (March 2011), amended LR 42:1508 (September 2016), amended by the Department of Children and Family Services, Licensing Section, LR: 45:

Marketa Garner Walters
Secretary

1902#015

DECLARATION OF EMERGENCY

Department of Children and Family Services Licensing Section

State Central Registry—Juvenile Detention Facilities
(LAC 67:V.Chapter 75)

In accordance with the provisions of the Administrative Procedure Act R.S. 49:953 (A), the Department of Children and Family Services (DCFS) proposes to amend LAC 67:V, Subpart 8, Residential Licensing, Chapter 75, Juvenile Detention Facilities. This Emergency Rule shall be effective February 28, 2019, and shall remain in effect for a period of 120 days.

The proposed Rule amends Chapter 75, Juvenile Detention Facilities, §§7505, 7507, and 7511, and promulgates §7508. In accordance with R.S. 15:1110.2, any owner, operator, current or prospective employee, or volunteer requesting licensure or licensed by the DCFS is prohibited from ownership or employment if that person's name is recorded on the state central registry as a perpetrator with a justified (valid) finding of child abuse and/or neglect. Each provider licensed by the DCFS shall submit a request for a state central registry check for all owners, staff, contractors, LDE staff, and volunteers prior to November 16, 2018. The implementation of this Rule will ensure that no individual with a justified (valid) finding of child abuse and/or neglect listed on the state central registry owns, provides services for, or is employed in a facility licensed by DCFS.

Title 67

SOCIAL SERVICES

Part V. Child Welfare

Subpart 8. Residential Licensing

Chapter 75. Juvenile Detention Facilities

§7505. Definitions

Individual Owner—repealed.

LDE Staff—Louisiana Department of Education or local school district staff.

Owner or Operator—individual or juridical entity exercising direct or indirect control over a licensed entity.

1. For licensing purposes the following are considered owners:

a. *Individual Ownership*—individual and spouse listed on the licensing application submitted and who have access to the children/youth in care of the provider and/or children/youth who receive services from the provider and/or who are present at any time on the facility premises when children/youth are present;

b. *Partnership*—all limited or general partners and managers who are listed on the licensing application submitted and who have access to the children/youth in care of the provider and/or children/youth who receive services from the provider, and/or who are present at any time on the facility premises when children/youth are present;

c. *Church Owned, University Owned or Governmental Entity*—any clergy and/or board member who is listed on the licensing application submitted and who has access to the children/youth in care of the provider, and/or children/youth who receive services from the provider, and/or who is present at any time on the facility premises when children/youth are present;

d. *Corporation* (includes limited liability companies)—individual(s) who is registered as an officer of the board with the Louisiana Secretary of State and/or listed on the licensing application submitted and who has access to the children/youth in care of the provider, and/or children/youth who receive services from the provider, and/or who is present at any time on the facility premises when children/youth are present.

Ownership—repealed.

* * *

Provider—all owners or operators of the facility including the director of such facility.

* * *

Reasonable Suspicion—suspicion based on specific and articulable facts which indicate that an owner, or current or potential employee or volunteer has been investigated and determined to be the perpetrator of abuse and/or neglect of a minor resulting in a justified and/or valid finding prior to official notification from child welfare whether the person is or is not listed on the state central registry.

* * *

State Central Registry (SCR)—a subsystem of the state repository that maintains information on perpetrators of child abuse and neglect with valid findings on tiers I, II, and III of the child welfare tiered validity system.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:1110.

HISTORICAL NOTE: Promulgated by the Department of Children and Family Services, Division of Programs, Licensing Section, LR 38:1559 (July 2012), amended LR 39:1006 (April 2013), effective July 1, 2013, amended LR 42:395 (March 2016), amended by the Department of Children and Family Services, Licensing Section, LR 45:

§7507. Licensing Requirements

A. - A.14. ...

15. Any owner/owners of a juvenile detention facility shall provide documentation of a state central registry clearance from child welfare and satisfactory fingerprint based criminal record check conducted by Louisiana State Police.

a. When an individual is listed on the licensing application submitted and/or registered as an officer of the board with the Louisiana Secretary of State and does not have access to children/youth in care or children/youth who receive services from the provider and/or who is not present at any time on the facility premises when children/youth are present, a DCFS approved attestation form signed and dated by the individual is acceptable in lieu of the state central registry clearance and a satisfactory fingerprint based CBC from LSP. The attestation form shall be accepted for a period of one year from the date individual signed attestation form.

B. - B.1.q. ...

r. documentation of a state central registry clearance as required in §7508.

B.2. - F.3.a.ix ...

x. documentation of a state central registry clearance as required in §7508.

F.3.b. - G.1.c. ...

d. any validated instance of abuse and/or neglect as noted by inclusion on the state central registry if the owner is named or if the staff member who is named remains in the employment of the licensee;

G.1.e. - G.1.m. ...

n. knowingly permit an individual with a justified (valid) finding of child abuse and/or neglect to be on the premises without being directly supervised by another paid employee of the facility, who has not disclosed that their name appears with a justified (valid) finding prior to receipt of the official notification from child welfare that the individual is listed on the state central registry;

o. permit an individual to be on the premises or to have access to children/youth when listed on the state central registry.

H. - I.7. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:1110.

HISTORICAL NOTE: Promulgated by the Department of Children and Family Services, Division of Programs, Licensing Section, LR 38:1561 (July 2012), amended LR 38:3104 (December 2012), LR 39:1006 (April 2013), effective July 1, 2013, amended LR 42:395 (March 2016), amended by the Department of Children and Family Services, Licensing Section, LR 45:

§7508. State Central Registry

A. On November 1, 2018, and no later than November 9, 2018, provider shall submit a list of all owners/operators, contractors, and staff (paid, non-paid, and volunteers) employed/providing services as of November 1, 2018, to licensing management staff and shall attest that the information submitted is true and correct. The list shall be signed and dated by the director on file with the Licensing Section or by the owner. In addition, provider shall submit a list of all owners/operators, contractors, and staff (paid, non-paid, and volunteers) that have resided in another state within the previous five years which shall include the individual's name and state(s) in which the individual resided. The list shall be signed and dated by the director on file with the Licensing Section or by the owner. If no owner/operator, contractor, or staff resided in another state within the previous five years, provider shall submit a signed statement attesting to such to Licensing Section management staff.

B. Current Owners as of November 1, 2018

1. Effective November 1, 2018, and in accordance with R.S. 15:1110.2, provider shall submit a state central registry request for each owner/operator including board members who meet the definition of an owner to DCFS child welfare to conduct a check of the state central registry. The request shall be submitted to child welfare no later than November 16, 2018. For owners/operators including board members who meet the definition of an owner who have resided in another state within the proceeding five years, provider shall submit a request to that state's child abuse and neglect registry no later than November 16, 2018. Documentation of request shall be available for review.

a. If the provider requests an out-of-state state central registry check and that state advises that they are unable to process the request due to statutory limitations, documentation of such shall be kept on file.

2. A search of the state central registry will determine if an owner/operator is currently listed on the state central registry as a perpetrator of valid (justified) abuse and/or neglect. No person who is recorded on any state central registry with a valid (justified) finding of abuse and/or neglect of a child shall be eligible to own, operate, or participate in the governance or management of the juvenile detention facility.

3. Provider shall submit a state central registry request to child welfare every five years from the issue date noted on the state central registry clearance form for all owners/operators who meet the definition of an owner and at any time upon the request of DCFS when reasonable suspicion exists that an individual may be listed on the state central registry. If an owner resides in another state and is licensed to operate a juvenile detention facility in the state of Louisiana, provider shall submit a state central registry request to that state's child abuse and neglect registry every five years from the issue date noted on the previous year's registry clearance form.

4. Upon notification from child welfare or any other state that the owner/operator is not listed on the state central registry, the provider shall maintain on file the notification(s) that his/her name does not appear on the registry.

5. Upon notification to the juvenile detention facility from child welfare or any other state that the owner/operator is listed on the state central registry, the owner/operator shall no longer be eligible to own, operate, or participate in the governance or management of the juvenile detention facility. The owner/operator can voluntarily close the business or if he/she chooses not to close the business, the license shall be immediately revoked. If the owner/operator is a member of the board or clergy, the provider shall submit a signed, dated statement to licensing within 24 hours or no later than the next business day indicating that the individual has resigned or been relieved of his position with the effective date of the resignation/removal. If this statement is not received by licensing within the aforementioned timeframe, the license shall be immediately revoked. Provider shall also submit documentation to licensing within seven calendar days verifying that the individual's name has been removed from the Secretary of State's website if owned by a corporation.

6. If after an initial state central registry clearance form is received by the juvenile detention facility from child welfare noting that the owner/operator is not listed on the state central registry and due to a new justified (valid) finding, the owner/operator receives a subsequent notice that he/she is listed on the state central registry and he/she advises the juvenile detention facility of the new information prior to receiving official notification from child welfare, licensing shall be notified within 24 hours or no later than the next business day, whichever is shorter. The owner/operator shall be directly supervised by a paid staff (employee) of the juvenile detention facility at any and all times when he/she is on the premises and/or in the presence of a child/youth. The employee responsible for supervising the individual shall not be a suspected perpetrator with a justified (valid) determination of abuse and/or neglect. Under no circumstances shall the owner/operator with the valid (justified) finding of abuse and/or neglect be left alone and unsupervised with a child/youth pending the official

determination from child welfare that the individual is or is not listed on the state central registry.

7. State central registry clearances are not transferable between owners.

C. Prospective Owners Effective November 1, 2018

1. Effective November 1, 2018, and in accordance with R.S. 15:1110.2, an inquiry of the state central registry for all owners (including board members who meet the definition of an owner) and operators shall be conducted prior to a license being issued. For owners/operators, including board members who meet the definition of an owner who resided in another state within the proceeding five years, provider shall request a state central registry check and obtain clearance information from that state's child abuse and neglect registry. Louisiana state central registry clearances shall be dated no earlier than 45 days prior to the license being issued. Out-of-state state central registry clearances shall be dated no earlier than 120 days prior to license being issued.

a. If the provider requests an out-of-state state central registry check and that state advises that they are unable to process the request due to statutory limitations, documentation of such shall be kept on file.

2. A search of the state central registry will determine if the owner/operator is currently listed on the state central registry as a perpetrator of justified (valid) abuse and/or neglect. No person who is recorded on any state's child abuse and neglect registry with a justified (valid) finding of abuse and/or neglect of a child shall be eligible to own, operate, or participate in the governance or management of the juvenile detention facility.

3. Provider shall submit a state central registry request to child welfare every five years from the issue date noted on the state central registry clearance form for all owners/operators including board members who meet the definition of an owner and at any time upon the request of DCFS if reasonable suspicion exists that an individual may be listed on the state central registry. If an owner resides in another state and is licensed to operate a juvenile detention facility in the state of Louisiana, provider shall submit a state central registry request to that state's child abuse and neglect registry every five years from the issue date noted on the previous year's registry clearance form.

4. Upon notification from child welfare or any other state that the owner/operator(s) is not listed on the state central registry, the provider shall maintain on file the notification(s) that his/her name does not appear on the registry with a justified (valid) finding of abuse and/or neglect.

5. Upon notification to the provider from child welfare or any other state that the owner/operator is listed on the state central registry, the owner/operator shall no longer be eligible to own, operate, or participate in the governance or management of the juvenile detention facility. The owner/operator can voluntarily withdraw the application for licensure or if he/she chooses not to withdraw the application, the application shall be immediately denied. If the individual with the justified (valid) finding of abuse and/or neglect is a member of the board, the provider shall submit a signed, dated statement to licensing within 24 hours or no later than the next business day indicating that the

board member has resigned his/her position on the board/been relieved of his position on the board with the effective date of the resignation/removal. Within seven calendar days, provider shall also submit documentation to licensing verifying that the individual's name has been removed from the Secretary of State's website to licensing if owned by a corporation. After receipt of the statement, the application for licensure may continue to be processed.

6. If after an initial state central registry clearance form is received by juvenile detention facility from child welfare noting that the owner/operator is not listed on the state central registry and due to a new valid finding against the owner/operator receives a subsequent notice (issued after the provider was licensed) that he/she is listed on the state central registry and the owner/operator advises the juvenile detention facility of the new information prior to his/her appeal rights being exhausted, licensing shall be notified within 24 hours or no later than the next business day, whichever is shorter. The owner/operator, shall be directly supervised by a paid staff (employee) of the juvenile detention facility at any and all times when he/she is on the premises or in the presence of a child/youth. The employee responsible for supervising the individual shall not be a suspected perpetrator with a justified (valid) determination of abuse and/or neglect. Under no circumstances shall the owner/operator, with the justified (valid) finding of abuse and/or neglect, be left alone and unsupervised with a child/youth pending the official determination from child welfare that the individual is or is not listed on the state central registry.

7. State central registry clearances are not transferable between owners.

D. Current Staff as of November 1, 2018

1. Effective November 1, 2018, and in accordance with R.S. 15:1110.2, provider shall submit a state central registry request for each currently employed staff (paid and non-paid staff and volunteers) to DCFS child welfare to conduct a check of the state central registry. The request shall be submitted to child welfare no later than November 16, 2018. For staff who have resided in another state within the proceeding five years, provider shall request information from that state's child abuse and neglect registry no later than November 16, 2018. Documentation of request shall be available for review.

a. If the provider requests an out-of-state state central registry check and that state advises that they are unable to process the request due to statutory limitations, documentation of such shall be kept on file.

2. A search of the state central registry will determine if the individual is currently listed on the state central registry as a perpetrator of justified (valid) abuse and/or neglect. No person who is recorded on any state's child abuse and neglect registry shall be eligible for employment or to provide volunteer services with the facility.

3. Provider shall submit a state central registry request to child welfare every five years from the issue date noted on the state central registry clearance form for all staff and at any time upon the request of DCFS if reasonable suspicion exists that a staff may be listed on the state central registry. If a person resides in another state and is employed at a juvenile detention facility in the state of Louisiana, provider shall submit a state central registry request to that state's

child abuse and neglect registry every five years for this staff from the issue date noted on the previous year's registry check form.

a. If the provider requests an out-of-state state central registry check and that state advises that they are unable to process the request due to statutory limitations, documentation of such shall be kept on file.

4. Upon notification from child welfare or any other state that the staff is not listed on the state central registry, the provider shall maintain on file the notification(s) that the staff's name does not appear on the registry.

5. Upon notification to the provider from child welfare or any other state that the staff is listed on the state central registry, the staff shall no longer be eligible for employment with the juvenile detention facility. The provider shall submit a signed, dated statement to licensing within 24 hours or no later than the next business day indicating that the staff has been relieved of his/her position at the agency with the effective date of the termination. If this statement is not received by licensing within the aforementioned timeframe, the license shall be immediately revoked.

6. If after the state central registry clearance form is received by provider from child welfare noting that the staff is not listed on the state central registry and due to a new valid finding the staff receives a subsequent notice that he/she is listed on the state central registry and advises the provider of the new information prior to his/her appeal rights being exhausted, licensing shall be notified within 24 hours or no later than the next business day, whichever is shorter. The staff with the justified (valid) finding of abuse and/or neglect, at any and all times when he/she is on the premises and/or in the presence of a child/youth, shall be directly supervised by another paid staff (employee) of the juvenile detention facility. The employee responsible for supervising the individual shall not be a suspected perpetrator with a justified (valid) determination of abuse and/or neglect. Under no circumstances shall the staff with the justified (valid) finding of abuse and/or neglect be left alone and unsupervised with a child/youth pending the official determination from child welfare that the individual is or is not listed on the state central registry.

7. State central registry clearances are not transferable between owners.

E. Prospective Staff Effective November 1, 2018

1. Effective November 1, 2018, and in accordance with R.S. 15:1110.2, an inquiry of the state central registry for all staff (paid, non-paid and volunteers) shall be conducted prior to employment being offered to a potential hire or volunteer services provided. For staff persons who have resided in another state within the proceeding five years, provider shall request a state central check from that state's child abuse and neglect registry prior to hire. While awaiting the results of the out of state central registry results, the individual shall be directly supervised by a paid staff (employee) of the juvenile detention facility at any and all times when he/she is on the premises and/or in the presence of a child/youth. The employee responsible for supervising the individual shall not also be awaiting the results of an out of state central registry clearance. Under no circumstances shall the individual awaiting out of state central registry results be left alone and unsupervised with a child/youth

pending the official determination from that state that the individual is or is not listed on the state central registry. Louisiana state central registry clearances shall be dated no earlier than 45 days prior to the staff being present on the premises or having access to children/youth. Out-of-state state central registry clearances shall be dated no earlier than 120 days prior to license being issued.

a. If the provider requests an out-of-state state central registry check and that state advises that they are unable to process the request due to statutory limitations, documentation of such shall be kept on file.

2. A search of the state central registry will determine if the staff is currently listed on the state central registry as a perpetrator of justified (valid) abuse and/or neglect. No person who is recorded on any state's child abuse and neglect registry with a justified (valid) finding of abuse and/or neglect shall be eligible for employment or to provide volunteer services in a licensed juvenile detention facility.

3. Provider shall submit a state central registry request to child welfare every five years for staff from the issue date noted on the state central registry clearance form and at any time upon the request of DCFS if reasonable suspicion exists that a staff may be listed on the state central registry. If a person resides in another state and is employed at a juvenile detention facility in the state of Louisiana, provider shall submit a state central registry request to that state's child abuse and neglect registry every five years for this staff from the issue date noted on the previous year's registry clearance form.

a. If the provider requests an out-of-state state central registry check and that state advises that they are unable to process the request due to statutory limitations, documentation of such shall be kept on file.

4. Upon notification from child welfare or any other state that the staff is not listed on the state central registry, the provider shall maintain on file the notification(s) that the staff's name does not appear on the registry with a justified (valid) finding of abuse and/or neglect.

5. Upon notification to the provider from child welfare or any other state that the staff is listed on the state central registry, the staff shall no longer be eligible for employment or to provide volunteer services for the juvenile detention facility. The provider shall submit a signed, dated statement to licensing within 24 hours or no later than the next business day indicating that the staff with the justified (valid) finding of abuse and/or neglect will not be hired for a position at the agency. If this statement is not received by licensing within the aforementioned timeframe, the application shall be denied or license shall be immediately revoked.

6. If after the initial state central registry clearance form is received by the juvenile detention facility from child welfare noting that the staff is not listed on the state central registry and due to a new valid finding, the staff receives a subsequent notice that he/she is listed on the state central registry (issued after the provider was licensed) and advises the provider of the new information prior to his/her appeal rights being exhausted, licensing shall be notified within 24 hours or no later than the next business day, whichever is shorter. The staff with the justified (valid) finding of abuse and/or neglect shall be directly supervised by another paid staff (employee) of the juvenile detention facility at any and

all times when he/she present on the premises and/or is in the presence of a child/youth. The employee responsible for supervising the individual shall not be a suspected perpetrator with a justified (valid) determination of abuse and/or neglect. Under no circumstances shall the staff with the justified (valid) finding of abuse and/or neglect be left alone and unsupervised with a child/youth pending the official determination from child welfare that the individual is or is not listed on the state central registry.

7. State central registry clearances are not transferable between owners.

F. Current Contractors and LDE Staff as of November 1, 2018

1. Effective November 1, 2018, and in accordance with R.S. 15:1110.2, provider shall submit a request to DCFS child welfare for a check of the state central registry for each contractor and LDE staff. The request shall be submitted to child welfare no later than November 16, 2018. For contractors and LDE staff who have resided in another state within the proceeding five years, provider shall request a state central registry check no later than November 16, 2018, and obtain clearance information from that state's child abuse and neglect registry. Documentation of request shall be available for review.

a. If the provider requests an out-of-state state central registry check and that state advises that they are unable to process the request due to statutory limitations, documentation of such shall be kept on file.

2. A search of the state central registry will determine if the individual is currently listed on the state central registry as a perpetrator of justified (valid) abuse and/or neglect. No person who is recorded on any state's child abuse and neglect registry shall be eligible to provide contracted services for the juvenile detention facility.

3. Provider shall submit a state central registry request to child welfare every five years for contractors and LDE staff from the issue date noted on the state central registry clearance form and at any time upon the request of DCFS when reasonable suspicion exists that an individual may be listed on the state central registry. If a contractor or LDE staff resides in another state and provides services in a juvenile detention facility in the state of Louisiana, provider shall submit a state central registry request to that state's child abuse and neglect registry every five years for this contractor or LDE staff from the issue date noted on the previous year's registry clearance form.

a. If the provider requests an out-of-state state central registry check and that state advises that they are unable to process the request due to statutory limitations, documentation of such shall be kept on file.

4. Upon notification from child welfare or any other state that the individual is not listed on the state central registry, the provider shall maintain on file the notification(s) that the individual's name does not appear on the registry with a justified (valid) finding of abuse and/or neglect.

5. Upon notification to the provider from child welfare or any other state that the individual is listed on the state central registry, the individual shall no longer be eligible to provide services for the juvenile detention facility. The provider shall submit a signed, dated statement to licensing within 24 hours or no later than the next business day indicating that the individual will no longer provide

services to the agency with the effective date of the termination of services. If this statement is not received by licensing within the aforementioned timeframe, the license shall be immediately revoked.

6. If after the initial state central registry clearance form is received by provider from child welfare noting that the individual is not listed on the state central registry and due to a new valid finding the contractor or LDE staff receives a subsequent notice that he/she is listed on the state central registry and advises the provider of the new information prior to his/her appeal rights being exhausted, licensing shall be notified within 24 hours or no later than the next business day, whichever is shorter. The individual with the justified (valid) finding of abuse and/or neglect shall be directly supervised by a paid staff (employee) of the juvenile detention facility at any and all times when he/she is on the premises or in the presence of a child/youth. The employee responsible for supervising the individual shall not be suspected to be a perpetrator with a justified (valid) determination of abuse and/or neglect. Under no circumstances shall the contractor or LDE staff with the justified (valid) finding of abuse and/or neglect be left alone and unsupervised with a child/youth pending the official determination from child welfare that the individual is or is not listed on the state central registry.

7. State central registry clearances are not transferable between owners.

G. Prospective Contractors and LDE Staff Providing Services Effective November 1, 2018

1. Effective November 1, 2018, and in accordance with R.S. 15:1110.2, an inquiry of the state central registry for all contractors and LDE staff shall be conducted prior to providing contracted services or having access to children/youth. For contractors and LDE staff who have resided in another state within the proceeding five years, provider shall request a state central registry check from that state's child abuse and neglect registry prior to the individual providing services or having access to children/youth. While awaiting the results of the out of state central registry results, the individual shall be directly supervised by a paid staff (employee) of the juvenile detention facility at any and all times when he/she is on the premises and/or in the presence of a child/youth. The employee responsible for supervising the individual shall not also be awaiting the results of an out of state central registry clearance. Under no circumstances shall the individual awaiting out of state central registry results be left alone and unsupervised with a child/youth pending the official determination from that state that the individual is or is not listed on the state central registry. Louisiana state central registry clearances shall be dated no earlier than 45 days prior to the individual providing services or having access to children/youth. Out-of-state state central registry clearances shall be dated no earlier than 120 days prior to license being issued.

a. If the provider requests an out-of-state state central registry check and that state advises that they are unable to process the request due to statutory limitations, documentation of such shall be kept on file.

2. A search of the state central registry will determine if the individual is currently listed on the state central

registry as a perpetrator of justified (valid) abuse and/or neglect. No person who is recorded on any state's child abuse and neglect registry with a justified (valid) finding of abuse and/or neglect shall be eligible to provide services for the juvenile detention facility.

3. Provider shall submit a state central registry request to child welfare every five years for contractors and LDE staff from the issue date noted on the state central registry clearance form and at any time upon the request of DCFS if reasonable suspicion exists that an individual may be listed on the state central registry. If a contractor or LDE staff resides in another state but provides services in a juvenile detention facility in the state of Louisiana, provider shall submit a state central registry request to that state's child abuse and neglect registry every five years for the contractor or LDE staff from the issue date noted on the previous year's registry clearance form.

4. Upon notification from child welfare or any other state that the individual is not listed on the state central registry, the provider shall maintain on file the notification(s) that the individual's name does not appear on the registry with a justified (valid) finding of abuse and/or neglect.

5. The state central registry clearance form shall be dated no earlier than 45 days of the individual being present on the juvenile detention facility premises or having access to children/youth.

6. Upon notification to the provider from child welfare or any other state that the contractor or LDE staff is listed on the state central registry, the individual shall no longer be eligible to provide services for the juvenile detention facility. The provider shall submit a signed, dated statement to licensing within 24 hours or no later than the next business day indicating that the individual with the justified (valid) finding of abuse and/or neglect has been relieved of his duties with the juvenile detention facility with the effective date of termination of services. If this statement is not received by licensing within the aforementioned timeframe, the license shall be immediately revoked.

7. If after the initial state central registry clearance form is received by provider from child welfare noting that the individual is not listed on the state central registry and due to a new valid finding, the contractor or LDE staff receives a subsequent notice that he/she is listed on the state central registry (issued after the provider was licensed) and advises the juvenile detention facility of the new information prior to his/her appeal rights being exhausted, licensing shall be notified within 24 hours or no later than the next business day, whichever is shorter. The individual with the justified (valid) finding of abuse and/or neglect shall be directly supervised by a paid staff (employee) of the juvenile detention facility at any and all times when he/she present on the premises and/or is in the presence of a child/youth. The employee responsible for supervising the individual shall not be a suspected perpetrator with a justified (valid) determination of abuse and/or neglect. Under no circumstances shall the individual with the valid (justified) finding of abuse and/or neglect be left alone and unsupervised with a child/youth pending the official determination from child welfare that the individual is or is not listed on the state central registry.

8. State central registry clearances are not transferable between owners.

H. Reasonable Suspicion

1. Any information received or knowledge acquired by the provider that a current owner/operator, contractor, LDE staff, volunteer, and/or staff, is a perpetrator of abuse and/or neglect after November 1, 2018, with a justified (valid) determination of abuse and/or neglect prior to receipt of official notification from child welfare, shall be verbally immediately reported to licensing management staff and followed up in writing no later than the close of business on the next business day. Prior to receipt of the official notification and immediately upon the knowledge that a justified (valid) finding has been issued by DCFS, the individual shall be directly supervised by a paid staff (employee) of the juvenile detention facility, at any and all times when he/she is present on the premises and/or is in the presence of a child/youth. The employee responsible for supervising the individual shall not be a suspected perpetrator with a justified (valid) determination of abuse and/or neglect. Under no circumstances shall the individual with the justified (valid) finding of abuse and/or neglect be left alone and unsupervised with a child/youth pending the official determination from child welfare that the individual is or is not listed on the state central registry.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:1110.2.

HISTORICAL NOTE: Promulgated by the Department of Children and Family Services, Licensing Section, LR 45:

§7511. Facility Responsibilities

A. - A.3.d.i. ...

e. Each volunteer shall have documentation of a state central registry clearance from child welfare as required in §7508.

B. - B.5.b.iii. ...

c. Documentation of a state central registry clearance for all Louisiana Department of Education staff or local school district staff that interact with youth following the procedure outlined in §7508.

6. Documentation of a state central registry clearance from child welfare as required in §7508.

C. - H.1.a.vii. ...

viii. documentation of a state central registry clearance for all owners and staff as required in §7508.

H.2. - L.2 ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:1110.

HISTORICAL NOTE: Promulgated by the Department of Children and Family Services, Division of Programs, Licensing Section, LR 38:1565 (July 2012), amended LR 39:1007 (April 2013), effective July 1, 2013, amended LR 42:396 (March 2016), amended by the Department of Children and Family Services, Licensing Section, LR 45:

Marketa Garner-Walters
Secretary

1902#029

DECLARATION OF EMERGENCY

**Office of the Governor
Board of Examiners for New Orleans
and Baton Rouge Steamship Pilots**

Standards of Conduct (LAC 46:LXX.6311)

In accordance with the emergency provisions of the Administrative Procedures Act, R.S. 49:953 (B), and under the authority of R.S. 34:1041, et seq. and Title 46, Professional and Occupational Standards, Part LXX. River Pilots, Subpart 3. Board of Examiners for the New Orleans and Baton Rouge Steamship Pilots, et seq. the Board of Examiners for New Orleans and Baton Rouge Steamship Pilots for the Mississippi River declares an emergency to exist and adopts by emergency process the attached regulation for the increased mandatory rest period for New Orleans and Baton Rouge Steamship Pilots.

Due to the safety sensitive nature of the duties performed by state commissioned pilots, this board has a strong commitment to the public and maritime industry. The board has promulgated standards of conduct, in order to further enhance the safety and well being of the citizens of Louisiana and New Orleans and Baton Rouge Steamship Pilots as well as to prevent any imminent peril to public health, safety and welfare, and to achieve and maintain reliable, safe and efficient pilotage services.

The board has the authority to compel each and every individual pilot to be available for and accept orders for pilotage assignments in declared emergency situations or in other overriding operational conditions. This emergency rule amends LAC 46:LXX.6311 to provide for an increased mandatory rest period for New Orleans and Baton Rouge Steamship Pilots during time periods of extreme Mississippi River gauge levels and river currents.

This Emergency Rule becomes effective upon the signature of the President of the Board of Examiners for New Orleans and Baton Rouge Steamship Pilots for the Mississippi River and shall remain in effect for 120 days, unless rescinded, renewed or until permanent rules and regulations become effective.

Title 46

**PROFESSIONAL AND OCCUPATIONAL
STANDARDS**

Part LXX River Pilots

**Subpart 3. Board of Examiners for the New Orleans and
Baton Rouge Steamship Pilots**

Chapter 63. Standards of Conduct

§6311. Mandatory Rest Period

A. For the purpose of this rule, a turn is the time period from dispatch to the termination of the allotted travel time.

B. All pilots shall have a minimum of twelve hours rest period between turns.

C. For the purpose of this rule, the rest period begins at the termination of the allotted travel time at the completion of one turn and ends at the time of dispatching for the next turn.

D. Notwithstanding Subsection B, the captain of the station and shift pilots shall be exempt from the minimum 12 hours rest period in between turns. However, in no case shall the captain of the station and shift pilots exceed 12 bridge hours in any 24-hour period.

E. Notwithstanding Subsection B, any pilot completing a turn lasting less than 4 bridge hours or receiving a discharge, shall not be required to comply with the mandatory 12 hours rest period. However, in no case shall any pilot acquire more than 12 hours in a 24-hour period. Pilots requesting twelve hours rest period shall not be called or dispatched in less than 12 hours from the completion of their finishing time.

F. Notwithstanding Subsection B, during a state of declared emergency all pilots shall be exempt from the minimum 8 hours rest period in between turns. However, in no case shall any pilot exceed 12 bridge hours in any 24 hour period.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:1041 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Examiners for New Orleans and Baton Rouge Steamship Pilots, LR 31:56 (January 2005), amended by the Office of the Governor, Board of Examiners for New Orleans and Baton Rouge Steamship Pilots for the Mississippi River, LR 36:500 (March 2010), LR 38:3167 (December 2012), LR 45:

Captain Robert D. Heitmeier
President

1902#005

DECLARATION OF EMERGENCY

Department of Public Safety and Corrections Corrections Services

Administrative Remedy Procedure (LAC 22:I.325)

In accordance with the provisions R.S. 49:953, the Department of Public Safety and Corrections, Corrections Services, hereby determines that adoption of an emergency rule for implementation of the amendment of an existing Departmental Regulation, B-05-005, "Administrative Remedy Procedure", is necessary. The department has entered into a settlement agreement with the Department of Justice regarding how offenders may request an accommodation under the Americans with Disabilities Act. To ensure that offenders may seek judicial review on any accommodations modified or denied, the Administrative Remedy Procedure has been altered to enable same. Failure to make such amendments to this Departmental Regulation will place the department in breach of its agreement with the Department of Justice.

For the foregoing reasons, the Department of Public Safety and Corrections, Corrections Services, has determined that the adoption of an emergency rule for implementation of B-05-005, Administrative Remedy Procedure", is necessary and hereby provides notice of its declaration of emergency effective on February 8, 2019, in accordance with R.S. 49:953. This Emergency Rule shall be in effect for 120 days or until adoption of the final rule, whichever occurs first.

Title 22 CORRECTIONS, CRIMINAL JUSTICE AND LAW ENFORCEMENT

Part I. Corrections

Chapter 3. Adult Services

§325. Administrative Remedy Procedure

A. Purpose—to constitute the department's "administrative remedy procedure" for offenders as a regulation.

B. Applicability—deputy secretary, chief of operations, regional wardens, wardens, and sheriffs or administrators of local jail facilities. Each unit head is responsible for ensuring that all unit written policies and procedures are in place to comply with the provisions of this regulation. Furthermore, the provisions of this regulation as amended are applicable retroactively, and thus apply to any policy, condition, action, or request for administrative remedy filed prior to the date.

C. Policy. It is the secretary's policy that all offenders and employees have reasonable access to and comply with the department's "administrative remedy procedure" through which an offender may seek formal review of a complaint. Offenders housed in local jail facilities shall also be afforded reasonable access to a grievance remedy procedure. Revisions shall be accomplished through this regulation under the signature of the secretary.

D. Administrative Remedy Procedure—Purpose

1. On September 18, 1985, the Department of Public Safety and Corrections installed in all of its adult institutions a formal grievance mechanism for use by all offenders committed to the custody of the department. The process bears the name Administrative Remedy Procedure (ARP). Offenders are required to use and complete all steps in the procedure properly, including obeying all rules of the procedural process, before they can proceed with a suit in federal and state courts. No action shall be brought in a federal or state court with respect to prison conditions by any offender confined in any jail or correctional facility until all available administrative remedies are properly exhausted.

2. Corrections Services has established the administrative remedy procedure through which an offender may seek formal review of a complaint which relates to any aspect of his incarceration if less formal methods have not resolved the matter. Such complaints and grievances include, but are not limited to any and all claims seeking monetary, injunctive, declaratory or any other form of relief authorized by law and by way of illustration, includes actions pertaining to conditions of confinement, personal injuries, medical malpractice, time computations, even though urged as a writ of habeas corpus, or challenges to rules, regulations, policies or statutes, including grievances such as discrimination based on disability, offender requests for accommodations under the Americans with Disabilities Act and for complaints of sexual abuse under the Prison Rape Elimination Act.

3. Through this procedure, offenders shall receive reasonable responses and where appropriate, meaningful remedies.

E. Definitions

ARP Screening Officer—a staff member, designated by the warden, whose responsibility is to coordinate and facilitate the administrative remedy procedure process.

Days—calendar days.

Emergency Grievance (or Request for Emergency Administrative Remedy)—a matter in which disposition within the regular time limits would subject the offender to a substantial risk of personal injury or cause other serious and irreparable harm to the offender.

Exhaustion—proper exhaustion only occurs when an offender files a timely and procedurally proper request for remedy, which after it is accepted, is addressed on the merits at both the first and second step. A request for administrative remedy which is rejected is not considered properly exhausted, as such request has not been addressed on its merits at either of the two steps.

Grievance (or Request for Administrative Remedy)—a written complaint by an offender on the offender's own behalf regarding anything relating to prison conditions, including but not limited to a policy applicable within an institution, a condition within an institution, an action involving an offender of an institution, or an incident occurring within an institution, or discrimination based on disability.

NOTE: The pronouns "he" and "his" as used herein are for convenience only and are not intended to discriminate against female employees or offenders.

F. General Policy

1. Offenders may request administrative remedies to situations arising from policies, conditions or events within the institution that affect them personally, including discrimination based on disability.

2. All offenders, regardless of their classification, impairment or disability, shall be entitled to invoke this grievance procedure. It shall be the responsibility of the warden to provide appropriate assistance for offenders with literacy deficiencies or language barriers (including hearing and visual impairments).

3. There are procedures already in place within all DPS and C institutions which are specifically and expressly incorporated into and made a part of this administrative remedy procedure. These procedures shall constitute the administrative remedies for disciplinary matters and lost property claims.

a. General Procedures

i. Notification of Procedures

(a). Offenders must be made aware of the system by oral explanation at orientation and should have the opportunity to ask questions and receive oral answers.

(b). The procedures shall be posted in writing in areas readily accessible to all offenders.

(c). All offenders may request information about or assistance in using the procedure from their classification officer or from a counsel substitute who services their living area.

ii. Nothing in this procedure should serve to prevent or discourage an offender from communicating with the warden or anyone else in the department. All forms of communication to the warden will be handled, investigated and responded to as the warden deems appropriate.

iii. The requirements set forth in this document for acceptance into the administrative remedy procedure are solely to assure that incidents which may give rise to a cause of action will be handled through this two step system of review.

iv. The following matters shall not be appealable through this administrative remedy procedure:

(a). court decisions and pending criminal matters over which the department has no control or jurisdiction;

(b). Board of Pardons and Parole decisions (under Louisiana law, these decisions are discretionary and may not be challenged);

(c). sex offender assessment panel recommendations;

(d). lockdown review board decisions (offenders are furnished written reasons at the time this decision is made as to why they are not being released from lockdown, if that is the case. The board's decision may not be challenged. However, a request for administrative remedy on lockdown review board hearings can be made in the following instances):

(i). that no reasons were given for the decision of the board;

(ii). that a hearing was not held within 90 days from the offender's original placement in lockdown or from the last hearing. There will be a 20 day grace period attached hereto, due to administrative scheduling problems of the board; therefore, a claim based on this ground will not be valid until 110 days have passed and no hearing has been held;

(e). warden's decision regarding restoration of good time.

v. A request for accommodation under the Americans with Disabilities Act made using the administrative remedy procedure process and the resolution of the offender's request shall be deemed to be exhaustion of the administrative procedure. The initiation of the process and deadlines and time limits stated in the administrative remedy procedure remain applicable.

vi. If an offender registers a complaint against a staff member, that employee shall not be involved in the decision making process on the request for remedy. However, this shall not prevent the employee from participating at the step one level, since this employee may be the best source from which to begin collecting information on an alleged incident.

vii. At each stage of decision and review, offenders will be provided written answers that explain the information gathered or the reason for the decision reached along with simple directions for obtaining further review.

viii. Prior to filing a grievance in federal or state court, unless specifically excepted by law, the offender must properly exhaust all available administrative remedies. Only after the request for administrative remedy is accepted can proper exhaustion occur. Exhaustion can only occur when a second step response on the merits has been issued.

ix. If an offender submits multiple requests during the review of a previous request, they will be logged and set aside for handling at such time as the request currently in the system has been exhausted at the second step or until time limits to proceed from the first step to the second step have lapsed. The warden may determine whether a letter of instruction to the offender is in order.

x. In cases where a number of offenders have filed similar or identical requests seeking administrative remedy, it is appropriate to respond only to the offender who

filed the initial request. Copies of the decision sent to other offenders who filed requests simultaneously regarding the same issue will constitute a completed action. All such requests shall be logged separately.

xi. When an offender has filed a request at one institution and is transferred prior to the review, or if he files a request after transfer on an action taken by the sending institution, the sending institution shall complete the processing through the first step response (form B-05-005-ARP-2). The warden of the receiving institution shall assist in communication with the offender.

xii. If an offender is discharged before the review of an issue is completed that affects the offender after discharge, or if he files a request after discharge on an issue that affects him after discharge, the institution shall complete the processing and shall notify the offender at his last known address. All other requests shall be considered moot when the offender discharges and the process shall not be completed.

xiii. No action shall be taken against anyone for the good faith use of or good faith participation in the procedure.

(a). Reprisals of any nature are prohibited. Offenders are entitled to pursue, through the grievance procedure, a complaint that a reprisal occurred.

(b). The prohibition against reprisals should not be construed to prohibit discipline of offenders who do not use the system in good faith. Those who file requests that are frivolous or deliberately malicious may be disciplined accordingly.

b. Maintenance of Records

i. Administrative remedy procedure records are confidential. Employees who are participating in the disposition of a request may have access to records essential to the resolution of requests. Otherwise, release of these records is governed by R.S. 15:574.12.

ii. All reports, investigations, etc., other than the offender's original letter and responses, are prepared in anticipation of litigation and to become part of the attorney's work product for the attorney handling any anticipated future litigation of this matter; therefore these documents are confidential and not subject to discovery or the Public Records Act outlined in R.S. 44:1, et seq.

iii. Records shall be maintained as follows.

(a). An electronic log shall document the nature of each request, all relevant dates and disposition at each step.

(i). Each institution shall submit reports on administrative remedy procedure activity.

(ii). Cross references and notations shall be made on other appropriate databases such as ADA and PREA as may be warranted.

(b). Individual requests and disposition, and all responses and pertinent documents shall be kept on file at the institution or at headquarters.

(c). Records shall be kept four years following final disposition of the request.

c. Annual Review. The warden shall annually solicit comments and suggestions on the processing, the efficiency and the credibility of the administrative remedy procedure from offenders and staff. A report with the results of such review shall be provided to the chief of operations/office of adult services no later than January 31 of each year.

G. Initiating a Formal Grievance

1. Offenders are encouraged to resolve their problems within the institution informally, before initiating the formal process. Informal resolution is accomplished through communication with appropriate staff members. If an offender is unable to resolve his problems or obtain relief in this fashion, he may initiate the formal process. In order to ensure their right to use the formal procedure, a request to the warden shall be made in writing within a 90 day period after an incident has occurred. This requirement may be waived when circumstances warrant. The warden or designee shall use reasonable judgment in such matters. There is no time limit imposed for grievances alleging sexual abuse.

a. Initiating a Formal Grievance

i. The offender commences the process by completing a request for administrative remedy (form B-05-005-ARP-1) or writing a letter to the warden, in which he briefly sets out the basis for his claim, and the relief sought. For purposes of this process, a letter is:

(a). any form of written communication which contains the phrase: "This is a request for administrative remedy" or "ARP;" or

(b). request for administrative remedy (form B-05-005-ARP-1) at those institutions that wish to furnish forms for commencement of this process.

ii. The institution is not required to be responsible for furnishing the offender with copies of his letter of complaint. It is the offender's responsibility for obtaining or duplicating a copy of his letter of complaint through established institutional procedures and for retaining the copy for his own records. The form or original letter will become a part of the administrative record and will not be returned to the offender.

iii. Original letters or requests to the warden should be as brief as possible. Offenders should present as many facts as possible to answer all questions (who, what, when, where and how) concerning the incident. If a request is unclear or the volume of attached material is too great, it may be rejected and returned to the offender with a request for clarity or summarization on one additional page. The response deadline for a request for clarity or summarization begins on the date the resubmission is received by the ARP screening officer.

iv. No request for administrative remedy shall be denied acceptance into the administrative remedy procedure because it is or is not on a form; however, no letter as set forth above shall be accepted into the process unless it contains the phrase, "This is a request for administrative remedy or ARP."

b. Withdrawing a Formal Grievance. After filing a formal request for administrative remedy, the offender may request in writing that the warden or secretary cancel the administrative remedy request at any time and for any reason. A withdrawn request cannot constitute a properly exhausted administrative remedy.

H. Emergency or Sensitive Issues

1. In instances where the offender's request is of an emergency or sensitive issue as defined below, the following procedures will apply.

a. If an offender feels he is subjected to emergency conditions, he must send an emergency request to the shift

supervisor. The shift supervisor shall immediately review the request to determine the appropriate corrective action to be taken. All emergency requests shall be documented on an unusual occurrence report (form C-05-001-W-1) by the appropriate staff member.

i. Abuse of the emergency review process by an offender shall be treated as a frivolous or malicious request and the offender shall be disciplined accordingly. Particularly, but not exclusively, matters relating to administrative transfers and time computation disputes are not to be treated as emergencies for purposes of this procedure, but shall be expeditiously handled by the shift supervisor, when appropriate.

b. If the offender believes the complaint is sensitive and that he would be adversely affected if the complaint became known at the institution, he may file the complaint directly with the secretary through the chief of operations/office of adult services (second step response-form B-05-005-ARP-3). The offender must explain, in writing, his reason for not filing the complaint at the institution.

i. If the chief of operations/office of adult services agrees that the complaint is sensitive, he shall accept and respond to the complaint at the second step. If he does not agree that the complaint is sensitive, he shall so advise the offender in writing, and return the complaint to the warden's office. The offender shall then have five days from the date the rejection memo is received in the warden's office to submit his request through regular channels (beginning with the first step if his complaint is acceptable for processing in the administrative remedy procedure).

c. If an emergency complaint alleges that the offender is subject to a substantial risk of imminent sexual abuse, the grievance shall be sent immediately to the unit's PREA compliance manager who shall then immediately notify the unit's PREA investigator. The unit PREA compliance manager shall provide an initial response within 48 hours of receipt of the grievance outlining any corrective actions warranted and shall issue a first step response within five days. If the offender has been secured and is no longer in danger or imminent harm, the grievance procedure shall proceed as outlined within the deadlines and time limits stated in the administrative remedy procedure.

I. Grievance Screening

1. The ARP screening officer shall screen all requests prior to assignment to the first step. The screening process should not unreasonably restrain the offender's opportunity to seek a remedy.

a. The ARP screening officer shall provide notice to the offender that his request is either:

- i. being accepted and will be processed, or
- ii. being rejected and will not be processed until the noted deficiency is corrected.

b. Accepted Requests

i. If the request is accepted, the warden, or designee, will assign a staff member to conduct further fact-finding and/or information gathering prior to rendering his response.

ii. Once an offender's request is accepted into the procedure, he must use the manila envelope that is furnished

to him with the first step response (form B-05-005-ARP-2) to continue in the procedure. The flaps on the envelope may be tucked into the envelope for mailing to the facility's ARP screening officer.

c. Rejected Requests

i. If a request is rejected, it must be for one of the following reasons:

(a). This matter is not appealable through this process, such as:

- (i). court decisions;
- (ii). Board of Pardons and Committee on Parole decisions;
- (iii). sex offender assessment panel recommendations;
- (iv). lockdown review board (refer to Subsection F, General Policy).

(b). There are specialized administrative remedy procedures in place for this specific type of complaint, such as:

- (i). disciplinary matters;
 - (ii). lost property claims.
- (c). It is a duplicate request.
- (d). The complaint concerns an action not yet taken or a decision which has not yet been made.

(e). The offender has requested a remedy for another offender (unless the request is a third party report of an allegation of sexual abuse).

(f). The request was not written by the offender and a waiver was not approved. The only exception is if the offender has alleged sexual abuse. In this instance, the offender:

(i). may seek help from a third party to file the initial grievance;

(ii). must attach written authorization for the named third party to submit the grievance on the offender's behalf; and

(iii). must personally pursue any remaining subsequent steps in the process, including participation in any resulting investigation.

(g). The offender has requested a remedy for more than one incident (a multiple complaint) unless the request is a report of an allegation of sexual abuse.

(h). Established rules and procedures were not followed.

(i). There has been a time lapse of more than 90 days between the event and the initial request, unless waived by the warden. Some exceptions may apply such as time computation issues, ADA issues, PREA issues, and on-going medical issues.

(j). The offender does not request some type of remedy unless the request pertains to an allegation of sexual abuse, in which case stopping the abuse is the implied request for remedy.

(k). The offender's request is unclear or the volume of attached material is too great.

(l). The offender requests a religious exemption via this administrative remedy procedure prior to exhausting the religious exemption process.

ii. The offender shall be provided written notification of the grounds upon which the rejection is based.

iii. A rejected request is not appealable to the second step. If a request is rejected for any of the reasons listed above, the offender must correct the noted deficiencies and resubmit the request to the ARP screening officer.

iv. The offender has not properly exhausted administrative remedies if his request is rejected for any of the reasons listed above.

J. Grievance Processing

1. The following process and time limits shall be adhered to in processing any ARP request.

a. First Step (time limit 40 days/5 days for PREA)

i. If an offender refuses to cooperate with the inquiry into his allegation, the request may be denied by noting the lack of cooperation on the appropriate step response and returning it to the offender.

ii. The warden shall respond to the offender within 40 days/5 days for PREA from the date the request is received at the first step utilizing the first step response (form B-05-005-ARP-2).

iii. If the offender is not satisfied with the decision rendered at the first step, he should pursue his grievance to the secretary, through the chief of operations/office of adult services via the second step.

iv. For offenders wishing to continue to the second step, sufficient space will be allowed on the response to give a reason for requesting review at the next level. It is not necessary to rewrite the original letter of request as it will be available to all reviewers at each step of the process.

b. Second Step (time limit 45 days)

i. An offender who is dissatisfied with the first step response (form B-05-005-ARP-2) may appeal to the secretary of the Department of Public Safety and Corrections by so indicating that he is not satisfied in the appropriate space on the response form and forwarding it to the ARP screening officer within five days of receipt of the decision.

ii. A final decision will be made by the secretary or designee and the offender shall be sent a response within 45 days from the date the request is received at the second step utilizing the second step response (form B-05-005-ARP-3).

iii. A copy of the secretary's decision shall be sent to the warden.

iv. If an offender is not satisfied with the second step response (form B-05-005-ARP-3), he may file suit in district court. The offender must furnish the administrative remedy procedure number on the court documents.

c. Deadlines and Time Limits. No more than 90 days from the initiation to completion of the process shall elapse, unless an extension has been granted. Absent such an extension, expiration of response time limits shall entitle the offender to move on to the next step in the process.

i. An offender may request an extension in writing of up to five days in which to file at any stage of the process.

(a). This request shall be made to the ARP screening officer for an extension to initiate a request; to the warden for the first step response (form B-05-005-ARP-2) and to the secretary through the chief of operations/office of adult services for the second step response (form B-05-005-ARP-3).

(b). The offender must certify valid reasons for the delay, which must accompany his untimely request. The issue of sufficiency of valid reasons for delay shall be addressed at each step, along with the substantive issue of the complaint.

ii. The warden may request permission for an extension of time not more than five days from the chief of operations/office of adult services for the step one review/response.

(a). The offender must be notified in writing of such an extension.

(b). Cumulative extensions of time shall not exceed 25 days unless the grievance concerns sexual abuse, in which case an extension of time up to 70 days may be made.

(c). If the extension is approved, written communication shall be sent to the offender of the extension and a date by which the decision shall be rendered. Reasons for the extension of time for unusual circumstances shall be maintained in the administrative record.

K. Monetary Damages

1. Based upon credible facts within a grievance or complaint filed by an offender, the Department of Public Safety and Corrections may determine that such an offender is entitled to monetary damages where such damages are deemed by the department as appropriate to render a fair and just remedy.

a. Upon a determination that monetary damages should be awarded, the only remaining question is quantum or the dollar amount of the monetary damages to be awarded.

b. The determination of quantum shall be made after a formal review by the case contractor for the Office of Risk Management within the Division of Administration. The determination reached by the case contractor shall be submitted to the Office of Risk Management and the Department of Public Safety and Corrections for a final decision.

c. If a settlement is reached, a copy of the signed release shall be given to the warden on that same date.

L. Lost Property Claims

1. The purpose of this section is to establish a uniform procedure for handling lost property claims filed by offenders in the custody of the Department of Public Safety and Corrections. Each warden is responsible for ensuring that appropriate unit written policy and procedures are in place to comply with the provisions of this procedure and for advising offenders and affected employees of its contents.

a. When an offender suffers a loss of personal property, he may submit a lost personal property claim (form B-05-005-A) to the warden or designee. The claim shall include the date the loss occurred, a full statement of the circumstances which resulted in the loss of property, a list of the items which are missing, the value of each lost item and any proof of ownership or value of the property available to the offender. All claims for lost personal property must be submitted to the warden or designee within 10 days of discovery of the loss.

i. Under no circumstances will an offender be compensated for an unsubstantiated loss, or for a loss which

results from the offender's own acts or for any loss resulting from bartering, trading, selling to or gambling with other offenders.

b. The warden or designee shall assign an employee to investigate the claim. The investigative officer shall investigate the claim fully and will submit his report and recommendations to the warden or designee.

c. If a loss of an offender's personal property occurs through the negligence of the institution and/or its employees, the offender's claim may be processed in accordance with the following procedures.

i. Monetary:

(a). the warden or designee shall recommend a reasonable value for the lost personal property as described on the lost personal property claim (form B-05-005-A). The state assumes no liability for any lost personal clothing;

(b). a lost personal property claim response (form B-05-005-B) and agreement (form B-05-005-C) shall be completed and submitted to the offender for his signature; and

(c). the claim shall be submitted to the chief of operations/office of adult services for review and final approval.

ii. Non-monetary:

(a). the offender is entitled only to state issue where state issued items are available;

(b). the warden or designee shall review the claim and determine whether or not the institution is responsible;

(c). a lost personal property claim response (form B-05-005-B) shall be completed and submitted to the offender for his signature;

(d). an agreement (form B-05-005-C) shall be completed and submitted to the offender for his signature when state issue replacement has been offered.

d. If the warden or designee determines that the institution and/or its employees are not responsible for the offender's loss of property, the claim shall be denied, and a lost personal property claim response (form B-05-005-B) shall be submitted to the offender indicating the reason. If the offender is not satisfied with the resolution at the unit level, he may indicate by checking the appropriate box on the lost personal property claim response (form B-05-005-B) and submitting it to the ARP screening officer within five days of receipt. The screening officer shall provide the offender with an acknowledgment of receipt and date forwarded to the chief of operations/office of adult services. A copy of the offender's original lost personal property claim (form B-05-005-A) and lost personal property claim response (form B-05-005-B) and other relevant documentation shall be attached.

M. DPS and C Offenders Housed in Non-DPS and C Facilities

1. Offenders shall have reasonable access to a grievance remedy procedure that includes at least two levels of review if necessary.

a. A DPS and C offender housed in a non-DPS and C facility with a complaint that relates to time computation, requests for transfer, or transitional work program requests should submit his grievance request directly to DPS&C Headquarters Internal Affairs. A representative from Headquarters Internal Affairs shall respond to the offender

within 90 days. If the offender is not satisfied with the response, he may file suit with the 19th Judicial District Court.

b. A DPS and C offender housed in a non-DPS and C facility with a complaint that relates to conditions of confinement, personal injuries, medical complaints, the classification process, challenges to rules, regulations, or policies, or any other complaint not outlined above in section a. should submit his grievance request to the jail administrator of the facility in which he is housed. If the offender is not satisfied with the response, he may file suit with the district court of the parish in which the facility is located.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:950.

HISTORICAL NOTE: Promulgated by the Department of Corrections, Office of Adult Services, LR 28:857 (April 2002), amended LR 28:1993 (September 2002), amended by the Department of Public Safety and Corrections, Corrections Services, LR 37:3275 (November 2011), LR 39:2779 (October 2013), LR 45:

James M. Le Blanc
Secretary

1902#057

DECLARATION OF EMERGENCY

**Department of Wildlife and Fisheries
Wildlife and Fisheries Commission**

Oyster Harvest Reopening—East Portion of Calcasieu Lake

In accordance with the emergency provisions of Louisiana Revised Statutes (R.S.) 49:953, under the authority of R.S. 56:433, and under the authority of a Declaration of Emergency passed by the Wildlife and Fisheries Commission on August 2, 2018, which authorized the secretary of the Department of Wildlife and Fisheries to take emergency action to reopen public oyster seed grounds or reservations if sufficient quantities of oysters are available and to adjust sack limits and sacking only areas, notice is hereby given that the secretary of Wildlife and Fisheries hereby declares that the East portion of the Calcasieu Lake Public Oyster Area as described in R.S. 56:435.1.1 shall reopen for the purposes of market oyster harvest at one half hour before sunrise on Monday, January 21, 2019, with the following conditions.

1. The reopening of the East portion of the Calcasieu Lake Public Oyster Area shall not supersede any public health closures.

2. All oysters aboard a vessel harvesting on the East portion of the Calcasieu Lake Public Oyster Area are deemed to have been taken from east portion of the Calcasieu Lake Public Oyster Area.

3. Oyster scrapers are prohibited on vessels harvesting oysters in Calcasieu Lake.

4. The daily and possession sack limit is set at 10 sacks of oysters per vessel. The following area shall remain closed for the entire 2018/2019 oyster season: The Long Point cultch plant (2017), located on the east side of Calcasieu Lake near Long Point in Cameron Parish, within the following coordinates:

- a. 29 degrees 55 minutes 03.45 seconds N
93 degrees 19 minutes 20.26 seconds W;
- b. 29 degrees 54 minutes 55.75 seconds N
93 degrees 19 minutes 01.32 seconds W;
- c. 29 degrees 54 minutes 14.64 seconds N
93 degrees 19 minutes 22.67 seconds W;
- d. 29 degrees 54 minutes 21.22 seconds N
93 degrees 19 minutes 40.43 seconds W;
- e. 29 degrees 54 minutes 31.41 seconds N
93 degrees 19 minutes 12.81 seconds W;
- f. 29 degrees 54 minutes 45.8388 seconds N
93 degrees 19 minutes 27.6384 seconds W.

Notice of any opening, delaying, or closing of a season will be provided by public notice at least 72 hours prior to such action, unless such closure is ordered by the Louisiana Department of Health for public health concerns.

Jack Montoucet
Secretary

1902#007

DECLARATION OF EMERGENCY

**Department of Wildlife and Fisheries
Wildlife and Fisheries Commission**

**Public Oyster Seed Grounds Closure
East of the Mississippi River**

In accordance with the emergency provisions of Louisiana Revised Statutes (R.S.) 49:953, under the authority of R.S. 56:433, and under the authority of a Declaration of Emergency passed by the Wildlife and Fisheries Commission on August 2, 2018, which authorized the secretary of the Department of Wildlife and Fisheries to take emergency action if oyster resources and/or reefs are being adversely impacted, notice is hereby given that the secretary does hereby declare that the harvest of oysters from the following portions of the public oyster seed grounds east of the Mississippi River, as described in LAC 76:VII.511, shall close at one half hour after sunset on Sunday, January 20, 2019:

- a. the area within the portion of Louisiana Department of Health (LDH) shellfish harvest area 3 that is North of latitude line: 29 degrees 59 minutes 30 seconds North, and;
- b. the following cultch plants within the coordinates described below:
 - 1. 3-mile pass (2013)—St. Bernard Parish:
 - a. 30 degrees 03 minutes 56.09 seconds N
89 degrees 22 minutes 32.52 seconds W;
 - b. 30 degrees 03 minutes 56.70 seconds N
89 degrees 22 minutes 15.40 seconds W;
 - c. 30 degrees 03 minutes 18.00 seconds N
89 degrees 22 minutes 06.30 seconds W;
 - d. 30 degrees 03 minutes 30.49 seconds N
89 degrees 22 minutes 38.17 seconds W;
 - 2. Drum Bay (2013)—St. Bernard Parish:
 - a. 29 degrees 53 minutes 13.00 seconds N
89 degrees 17 minutes 40.21 seconds W;
 - b. 29 degrees 53 minutes 16.51 seconds N
89 degrees 16 minutes 51.12 seconds W;

- c. 29 degrees 52 minutes 56.17 seconds N
89 degrees 16 minutes 49.80 seconds W;
- d. 29 degrees 52 minutes 53.99 seconds N
89 degrees 17 minutes 40.43 seconds W

The oyster population in the public oyster seed grounds has been in decline for several years and the recommended threshold in this portion of the public oyster seed grounds east of the Mississippi River has been met. The closure is also necessary to protect undersized oysters, allowing growth for future harvest opportunities. Continued commercial harvest might threaten the long-term sustainability of remaining oyster resources in these areas. Protection of these remaining oyster resources from injury is in the best interest of these public oyster seed grounds.

Notice of any opening, delaying, or closing of a season will be provided by public notice at least 72 hours prior to such action, unless such closure is ordered by the Louisiana Department of Health for public health concerns.

Jack Montoucet
Secretary

1901#008

DECLARATION OF EMERGENCY

**Department of Wildlife and Fisheries
Wildlife and Fisheries Commission**

Shrimp Season Closure—Portions of State Inside Waters

The secretary of the Department of Wildlife and Fisheries has been notified that recent biological sampling conducted by the department has indicated that average white shrimp size within these waters to be closed is smaller than the minimum possession count and this action is being taken to protect these small white shrimp and provide opportunity for growth to larger and more valuable sizes. R.S. 56:498 provides that the possession count on saltwater white shrimp for each cargo lot shall average no more than 100 (whole specimens) per pound except during the time period from October fifteenth through the third Monday in December.

In accordance with the emergency provisions of R.S. 49:953 of the Administrative Procedure Act which allows the Wildlife and Fisheries Commission to use emergency procedures to set shrimp seasons; R.S. 56:497 which allows the Wildlife and Fisheries Commission to delegate to the secretary of the Department of Wildlife and Fisheries the powers, duties and authority to set shrimp seasons; and in accordance with a Declaration of Emergency adopted by the commission on August 2, 2018, which authorizes the secretary of the department to close shrimp season in all or parts of state inside waters when biological and technical data indicate the need to do so or if enforcement problems develop, the secretary does hereby declare:

The 2018 fall shrimp season shall close on Monday, January 21, 2019, at official sunset in the following portions of state inside waters: Chef Menteur and Rigolets Passes, Lake Borgne, Mississippi Sound, Mississippi River Gulf Outlet (MRGO), a section of the Gulf Intracoastal Waterway (GIWW) in Orleans Parish from the GIWW East Closure Sector Gate westward to the GIWW intersection with the Inner Harbor Navigation Canal. With this declaration, all inside waters will be closed to shrimping with the exception

of the open waters of Breton and Chandeleur Sounds as bounded by the double-rig line described in R.S. 56:495.1(A)2.

Existing data do not currently support shrimping closures in additional state inside and outside waters. The department will continue monitoring shrimp populations in these waters and suggest additional closures if necessary. Notice of any opening, delaying or closing of a season by the secretary will be made by public notice at least 72 hours prior to such action.

Jack Montoucet
Secretary

1902#006

DECLARATION OF EMERGENCY

Workforce Commission Office of Unemployment Insurance Administration

Excepted Federal Employees Performing
Services during Government Shutdown
(LAC 40:IV.381)

The Louisiana Workforce Commission (LWC) is exercising the emergency provisions of the Administrative Procedure Act, R.S. 49:953(B)(1) et seq., to promulgate a Rule to address the qualifications for receipt of unemployment benefits for federal employees who continue to report for work without timely payment during a government shutdown.

This Emergency Rule is necessary to allow the Louisiana Workforce Commission to effectively administer the unemployment program as it pertains to excepted federal workers that are not being promptly paid, but continue to report for work during a government shutdown affecting the employee's government agency. A delay in promulgating this Rule would have an adverse impact on the financial welfare of affected individuals and their families. These excepted federal employees are uniquely positioned such that they are not able and available to search for or accept other employment, but cannot meet their financial obligations based upon their employment. The temporary suspension of work search and availability requirements for these employees will provide a small measure of support to cover the basic needs of the workers until such time as the workers are compensated for their services. The unemployment amounts paid to the workers will result in overpayments that LWC will collect once the workers are compensated by the federal government for their services. R.S. 23:1472(19)(a)(iii) allows the administrator to prescribe regulations applicable to unemployed individuals and to make distinctions in the procedures affecting partially unemployed individuals attached to their regular jobs. It is imperative that the Louisiana Workforce Commission proceed expeditiously with this Rule because the precarious position of these excepted federal workers is an imminent

peril to public health, safety, and welfare that requires immediate action on operations, implementation, and use of funds to provide benefits. Failure to adopt this Rule on an emergency basis may prohibit excepted federal employees, who continue to work to secure the safety of the general public, the basic support needed to provide for themselves and their families.

This Declaration of Emergency is effective January 25, 2019, and shall remain in effect for the maximum period allowed under the Administrative Procedure Act, R.S. 49:953 (B)(1) et seq., or until a continuing budget resolution that provides funding for retroactive payment of the excepted federal employees has been passed by the federal government, whichever occurs first.

Title 40

LABOR AND EMPLOYMENT

Part IV. Employment Security

Chapter 3. Employment Security Law

§381. Excepted Federal Employees Performing Services during Government Shutdown

A. Federal workers performing services without prompt payment of wages during a government shutdown, also referred to as excepted federal employees, shall be considered as partially unemployed.

B. Wages earned by excepted federal workers performing services shall be considered as wages paid for the purpose of claiming weekly benefit amounts only once wages are actually paid. Those federal wages that are unpaid will not be reported or deducted from the weekly benefit amount when claimed, but must be reported when paid and will result in a non-fraud overpayment.

C. Any amounts earned through other employment must be reported in the week earned, regardless of actual payment date.

D. For the purpose of availability and reporting requirements under R.S. 23:1601(3) and R.S. 23:1600(2) and (3), the administrator shall consider job attachment to federal employment by excepted federal workers that continue to provide services as good cause for not being available for work, registering for work, applying for work, accepting suitable work, or conducting an active job search.

E. Excepted federal employees that are required to continue to provide services without payment must provide proof of this status to the administrator's satisfaction.

F. This Emergency Rule is effective for the week ending January 26, 2019.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1591, La. R.S. 23:1472(19)(a)(iii), and R.S. 36:310.

HISTORICAL NOTE: Promulgated by the Workforce Commission, Office of Unemployment Insurance Administration, LR 45:

Ava M. Dejoie
Secretary

1902#010

Rules

RULE

Department of Children and Family Services Division of Child Welfare

Criminal Background and State Central Registry Checks;
State Repository, Central Registry
and Administrative Appeal
(LAC 67:I.203 and 67:V.1103, 1105 and 1111)

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:953(A), the Department of Children and Family Services (DCFS) has amended LAC 67:I.203; and LAC 67:V.1103, 1105 and 1111. The amendment updates the effective date for the implementation for certain provisions related to an administrative appeal when DCFS intends to justify/validate individuals for their involvement as a perpetrator of child abuse and/or neglect. This Rule is adopted on February 7, 2019, and it is effective on March 1, 2019.

Title 67

SOCIAL SERVICES

Part 1. General Administration

Chapter 2. Criminal Background and State Central Registry Checks

§203. Conditions of Employment

A. - A.2. ...

3. If the potential employee's name is recorded on the state central registry subsequent to January 1, 2010 and prior to August 1, 2018, they shall not be denied consideration for employment until the potential employee has exhausted their right to an administrative appeal and thereafter the potential employee's name is confirmed to be listed on the state central registry.

4. If the individual's name is recorded on the state central registry as a perpetrator of child abuse or neglect subsequent to August 1, 2018, they shall not be employed or considered for employment by the department in positions whose duties include the investigation of child abuse or neglect, supervisory or disciplinary authority over children, direct care of a child, or performance of licensing surveys.

B. Any current employee of the department whose duties include the investigation of child abuse or neglect, supervisory or disciplinary authority over children, direct care of a child, or performance of licensing surveys and whose name is recorded subsequent to January 1, 2010 and prior to August 1, 2018, shall not be terminated from their position in the department until the employee has exhausted their right to an administrative appeal and thereafter the employee's name is confirmed to be listed on the state central registry. If the employee's name is recorded on the state central registry subsequent to August 1, 2018, they shall be terminated from their current position whose duties include the investigation of child abuse or neglect, supervisory or disciplinary authority over children, direct care of a child, or performance of licensing surveys by the department.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:51.2.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of the Secretary, LR 36:851 (April 2010), amended by the Department of Children and Family Services, Division of Child Welfare, LR 44:997 (June 2018), amended LR 45:217 (February 2019).

Part V. Child Welfare

Subpart 3. Child Protective Services

Chapter 11. Administration and Authority

§1103. State Central Registry

A. - B.1.b. ...

2. Individuals who have been placed on the SCR as a perpetrator of abuse or neglect as the result of an investigation determined to be justified/valid prior to August 1, 2018, will have the right to an administrative appeal pursuant to LAC 67:V.1111. Information on such determinations will not be released until the individual has exhausted their right to an administrative appeal, unless otherwise allowed by law. Once the individual has exhausted their administrative appeal rights, if an SCR clearance has been received by DCFS, the clearance will be completed and information released consistent with the administrative hearing decision and as permitted for the purpose of the clearance request.

C.1....

2. Individuals in investigations in families who have been determined to be justified/valid as a perpetrator of child abuse and/or neglect for a tier 1, 2, or 3 finding, as defined in LAC 67:V.1103.A, subsequent to July 1, 2018, shall be provided written notice of the SCR and the rules governing maintenance and release of SCR records. As of August 1, 2018, the written notice shall also inform the individual of their right to an administrative appeal pursuant to LAC 67:V.1111. The individual's name will not be placed on the SCR until the individual has exhausted his right to an administrative appeal. If the individual fails to request an administrative appeal within 30 days of the written notification of the justified/valid finding, withdraws their request for an administrative appeal, or the justified/valid finding is upheld by an administrative law judge, the individual's name will be immediately placed on the SCR.

D. - E. ...

F.1. Any person whose name is included on the SCR subsequent to August 1, 2018, may file a rule to show cause against DCFS in the court exercising juvenile jurisdiction in the parish in which the investigation was conducted to show why the individual's name should not be removed from the SCR. A perpetrator of a tier 1 justified/valid determination cannot be removed through this procedure. This rule to show cause may be filed for a perpetrator of a tier 2 justified/valid determination after nine years from the date of the case closure, or, four years from the date of the case closure for a perpetrator of a tier 3 justified/valid determination with the following circumstances:

a. there was no child in need of care adjudication related to the justified/valid determination;

b. no criminal charges are currently pending, associated with the incident, or criminal conviction for any offense listed in R.S. 15:587.1; and

c. there have been no subsequent justified/valid determinations involving the individual as a perpetrator of child abuse or neglect.

F.2. - G.11. ...

AUTHORITY NOTE: Promulgated in accordance with the Children's Code, title VI, articles 615 and 616 and title XII, article 1173, R.S. 14:403(H), R.S. 46:51.2(A), R.S. 46:56, R.S. 46:1414.1, 42 USC 15601 et seq., 28 CFR 115.6., and 42 USC 9858f.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Community Services, LR 18:79 (January 1992), amended LR 20:198 (February 1994), LR 21:583 (June 1995), LR 23:590 (May 1997), LR 26:790 (April 2000), LR 31:1609 (July 2005), LR 36:838 (April 2010), amended by the Department of Children and Family Services, Division of Programs, Child Welfare Section, LR 42:862 (June 2016), amended by the Department of Children and Family Services, Division of Child Welfare, LR 44:998 (June 2018), amended LR 45:217 (February 2019).

§1105. Maintenance and Disclosure of Information on Reports and Investigations on the State Repository

A. - L.7. ...

M. Any person whose name is included on the SCR prior to August 1, 2018 with a justified/valid determination may file a rule to show cause against DCFS in the court exercising juvenile jurisdiction in the parish in which the investigation was conducted to show why the information on file should not be expunged. DCFS will expunge the petitioner's name and other identifying information from the SCR upon receipt of a court order to do so. Any expungement order issued by a court shall not take effect as to non-identifying statistical information on file until the three-year record retention period required by federal law for audit purposes has expired, counting from the month and year of the determination. During the three-year record retention period, such records bearing the non-identifying statistical information shall be sealed and accessible only to the financial auditors.

N. - O. ...

AUTHORITY NOTE: Promulgated in accordance with Louisiana Children's Code Article 616.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Community Services, LR 26:96 (January 2000), amended LR 31:1608 (July 2005), LR 36:840 (April 2010), amended by the Department of Children and Family Services, Division of Child Welfare, LR 44:1000 (June 2018), amended LR 45:218 (February 2019).

§1111. Child Protective Services Administrative Appeal

A. ...

B. Individuals with justified/valid findings in an investigation prior to August 1, 2018, will have the right to an administrative appeal of any/all of their DCFS findings of justified/valid. When a request for an SCR clearance is received by DCFS, or DCFS verifies that an individual has a justified/valid finding, and the individual is listed as a perpetrator with a justified/valid finding of abuse or neglect in an investigation prior to August 1, 2018; the individual will be notified in writing of their right to an administrative appeal. The individual will have 30 calendar days from the date of the written notification to request an appeal through DAL.

C. Any individual notified of a DCFS justified/valid finding in an investigation subsequent to August 1, 2018, will have the right to an administrative appeal of any/all of their DCFS findings of justified/valid. The individual will have 30 calendar days from the date of the written notification to request an appeal through the DAL.

D. - K. ...

AUTHORITY NOTE: Promulgated in accordance with Act 348 of 2017 and Children's Code Article 616.1.1.

HISTORICAL NOTE: Promulgated by the Department of Children and Family Services, Division of Child Welfare, LR 44:1002 (June 2018), amended LR 45:218 (February 2019).

Marketa Garner Walters
Secretary

1902#027

RULE

**Department of Economic Development
Office of the Secretary**

**Research and Development Tax Credit Program
(LAC 13:I.Chapter 29)**

Under the authority of R.S. 47:6015 and R.S. 36:104, and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Economic Development has amended LAC 13:I.2901 relative to the administration of the research and development tax credit program.

The purpose of this regulation is to implement legislative changes to the research and development tax credit program under R.S. 47:6015 as enacted by Act 336 of the 2017 Regular Session of the Legislature. This Rule is hereby adopted on the day of promulgation.

Title 13

ECONOMIC DEVELOPMENT

Part I. Financial Incentive Programs

Chapter 29. Research and Development Tax Credit

§2903. Definitions

A. Terms not otherwise defined in this Chapter shall have the same meaning given to them in R.S. 47:6015 unless the context clearly requires otherwise.

B. In this Chapter, the following terms shall have the meaning provided in this Section, unless the context clearly requires otherwise.

* * *

Base Amount—

a. If the taxpayer is an entity that employs fifty or more persons, the base amount shall be eighty percent of the average annual qualified research expenses within Louisiana during the three years preceding the taxable years.

b. If the taxpayer is an entity that employs less than fifty persons, the base amount shall be fifty percent of the average annual qualified research expenses within Louisiana during the three preceding taxable years.

*Credit Certification—*a certification by LED of the amount of the research and development tax credit earned by a person for a particular tax year.

*Custom Manufacturing or Custom Fabricating—*the business of companies (custom fabricators and/or manufacturers) that assemble, fabricate, or manufacturer

parts, equipment, assemblies, vessels, software or other products (“specified item”) in response to specific design criteria and delivery schedule provided by the customer/client.

a. The typical business model acquisition process utilized by custom fabricators and/or manufacturers is as follows:

i. the customer/client providing the custom fabricator and/or manufacturer with the detail specific design criteria for the specified item in a document generally referred to as a “request for proposal”;

ii. after review and analysis, the custom fabricator and/or manufacturer submits a “proposal” to the customer/client in which they commit to a specific price and delivery schedule to assemble, fabricate, or manufacturer the specified item requested by the customer/client in their request for proposal;

iii. if the proposal is acceptable, the customer/client will generally issue a “purchase order” commitment document to the custom fabricator and/or manufacturer agreeing to the terms of their proposal, and authorizing the custom fabricator or manufacturer to begin work per their proposal; and

iv. although the custom fabricator or manufacturer generally commits to a fixed price to produce the requested item, they have effectively negated most, if not all, material or unusual commercial transaction risks by their ability to analyze the required design criteria before committing to a specific price and delivery schedule within their proposal.

* * *

Professional Services Firm—a firm who is primarily engaged in work which requires specialized education, knowledge, labor, judgment or is predominantly mental or intellectual in nature; and which may require the holding of a professional license. These types of firms engage in activities which include, but are not limited to, architecture, engineering, legal services and accounting.

Qualified Research Expenses in the State—expenses for qualified research as defined under 26 U.S.C. §41(d) (“qualified research”) that are qualified research expenses under 26 U.S.C. §41(b) (“qualified research expenses”) and meet the following requirements:

a. - d. ...

e. 26 U.S.C. §41(d) also excludes expenditures associated with certain activities from the definition of qualified research. These activities include:

i. - vi. ...

Research and Development Tax Credits—credits against Louisiana income or corporation franchise taxes that are earned by a person pursuant to the provisions of the Research and Development Tax Credit Program provided by R.S. 47:6015.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:6015.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Business Development Services, Business Resources Division, LR 30:977 (May 2004), amended by the Office of the Secretary, LR 38:351 (February 2012), amended by the Office of Business Development, LR 40:49 (January 2014), LR 40:1525 (August 2014), amended by the Department of Economic Development, Office of the Secretary, LR 45:218 (February 2019).

§2904. Type, Amount and Duration of Credit

A. Type. Any taxpayer meeting the following criteria shall be allowed a tax credit to be applied against income and corporation franchise taxes due:

1. employs 50 or more persons (including affiliates) and claims for the taxable year a federal income tax credit under 26 U.S.C. §41(a) for increasing research activities;

2. employs less than 50 persons (including affiliates), and claims for the taxable year a federal income tax credit under 26 U.S.C. 41(a) for the taxable year, or incurs qualified research expenses for the taxable year, as defined in 26 U.S.C. §41(b); and

3. receives a small business innovation research grant, as defined in R.S. 47:6015(D).

B. Amount. The amount of the credit authorized shall be equal to:

1. 5 percent of the difference between the qualified in-state research expenses in the state for the taxable year minus the base amount, if the applicant is an entity that employs 100 or more persons (including affiliates); or

2. 10 percent of the difference, between the Louisiana qualified in-state research expenses in the state for the taxable year minus the base amount, if the applicant is an entity that employs 50 to 99 persons (including affiliates); or

3. 30 percent of the difference, between the qualified in-state research expenses in the state for taxable year minus the base amount if the applicant is an entity that employs fewer than 50 persons (including affiliates); or

4. 30 percent of the small business innovation research grant award or small business technology transfer program funding received during the tax year.

C. Duration. No credit shall be allowed for research expenditures incurred, small business technology transfer program funds received, or small business innovation research grant funds received after December 31, 2021.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:6015.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Business Development, LR 36:1768 (August 2010), amended by the Office of the Secretary, LR 38:351 (February 2012), amended by the Office of Business Development, LR 40:50 (January 2014), LR 40:1526 (August 2014), amended Office of the Secretary, LR 42:42 (January 2016), LR 45:219 (February 2019).

§2905. Certification of Amount of Credit

A. Prior to claiming a research and development tax credit on any tax return or selling any research and development tax credit, a person must apply for and obtain a credit certification from LED.

B. The application for a credit certification shall be submitted on a form provided by the LED and shall include, but not be limited to the following information:

1. an application fee equal to 0.5 percent of the amount of the tax credits applied for, with a minimum of \$500 and a maximum of \$15,000, payable to Louisiana Department of Economic Development;

2. appropriate supporting documentation:

a. for taxpayers employing 50 or more residents, a federal income tax return and evidence of the amount of federal research credit for the same taxable year;

b. for taxpayers employing up to 50 residents:

i. either:

(a). a federal income tax return and evidence of the amount of federal research credit for the same taxable year; or

(b). a request that LED enter into an attest engagement with a certified public accountant (“CPA”) authorized to practice in Louisiana or a tax attorney who is selected by LED for a report that focuses on verification of the applicant’s expenditures and claimed qualified research activities as well as pay the deposit for such report in accordance with R.S. 36:104.1 and 47:6015; and

ii. evidence of the amount of qualified research expenses for the same taxable year;

c. for taxpayers claiming credits based upon the federal small business innovation research grant, evidence of the amount of such grant;

d. the LED may also require documentation, including but not limited to the following, as proof of an expenditure prior to certification:

i. wages:

(a). copy of W-2 for each employee who participates in qualifying research and development activities;

(b). percentage of each employee’s salary that is dedicated to qualifying research and development activities; and

(c). Louisiana Workforce Commission quarterly report of wages paid for the company for the third and fourth quarter of the tax year in question;

ii. supplies:

(a). invoices with date of purchase included;

iii. contracted research:

(a). invoices with applicable dates or periods of work; and

(b). contracts for the research to be performed;

e. in order for any research and development project to qualify, the requesting company must identify:

i. the business component that was developed or improved;

ii. the uncertainty that existed in the capability, method or design related to such business component;

iii. how the research was technological in nature; and

iv. the process of experimentation undertaken;

3. the total amount of qualified research expenses and the qualified research expenses in the state;

4. the total number of Louisiana residents employed by the taxpayer and the number of those Louisiana residents directly engaged in research and development;

5. the average wages of the Louisiana resident employees not directly engaged in research and development and the average wages of the Louisiana resident employees directly engaged in research and development;

6. the average value of benefits received by all Louisiana resident employees;

7. the cost of health insurance coverage offered to all Louisiana resident employees;

8. any other information required by LED.

C. Taxpayers qualifying for tax credit transfers under §2915 may apply for up to two credit certifications per calendar year. All other taxpayers shall be limited to one credit certification per calendar year.

D. LED shall review the application and issue a credit certification in the amount determined to be eligible and provide a copy to the Department of Revenue. The credit certification and the amount of such certification shall be considered preliminary and shall be subject in all respects to audit by the Louisiana Department of Revenue.

E. In order for credits to be awarded, a taxpayer must claim the expenditures within one year after December 31 of the year in which the expenditure was incurred. For example, company A buys a piece of equipment that would qualify for the research and development tax credit on May 15, 2011. In order for company A to receive a credit on that expenditure, the application for credit on that expense must be received by December 31, 2012.

F. Each year LED shall perform a detailed examination of at least 10 percent of all applications received prior to the issuance of credits on such applications.

1. LED shall select applications for examination based on one or more of the following:

a. a random sampling;

b. applicant’s business sector; and

c. other selection criteria as determined by LED.

2. Upon notice that their application has been selected for examination, the applicant shall provide all supporting documentation requested by LED to show the amount of qualified research expenses for such taxable year.

3. The applicant bears the burden of proving that its activities meet the definition of qualified research under 26 U.S.C. §41(d).

4. LED still retains the right to examine a taxpayer’s application after the issuance of credits and any credits disallowed following such examination shall be subject to recovery, recapture or offset.

G. If LED reviews a submission and determines that an applicant is not eligible for tax credits for a tax year, the company shall have six months from the date of disallowance to resubmit additional documentation for reconsideration. LED will not consider any additional documentation after this six-month period.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:6015.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Business Development Services, Business Resources Division, LR 30:977 (May 2004), amended by the Office of Business Development, LR 36:1768 (August 2010), LR 38:351 (February 2012), LR 40:51 (January 2014), LR 40:1526 (August 2014), amended by the Office of the Secretary, LR 42:42 (January 2016), amended the Department of Economic Development, Office of the Secretary, LR 45:219 (February 2019).

§2911. Recapture of Credits

A. An application for credit certification shall constitute:

1. a consent by the taxpayer that credits granted under this Section, but later disallowed in whole or in part, may be recovered by the secretary of the Department of Revenue from the taxpayer applicant through any collection remedy authorized by the provisions of R.S. 47:6015(H); and

2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:6015.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Business Development Services, Business Resources Division, LR 30:978 (May 2004), amended by the Office of the Secretary, LR 38:352 (February 2012), amended

by the Office of Business Development, LR 40:52 (January 2014), LR 40:1527 (August 2014), amended by the Department of Economic Development, Office of the Secretary, LR 45:220 (February 2019).

§2913. Ineligible Businesses

A. - A.1. ...

2. businesses primarily engaged in custom manufacturing or custom fabricating that do not have a pending or issued United States patent related to the qualified research expenditures claimed.

B. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:6015.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Business Development, LR 40:52 (January 2014), amended LR 40:1527 (August 2014), amended by the Department of Economic Development, Office of the Secretary, LR 45:221 (February 2019).

§2915. Transfer of Certain Research and Development Credits

A. For tax years 2018 and later, credits based upon participation in either the Small Business Technology Transfer Program or the Small Business Innovation Research Grant not previously claimed by a taxpayer shall be transferable in accordance with the following provisions.

1. A single transfer or sale may involve one or more transferees.

2. Notice of the credit transfer shall be submitted by the applicant to the Louisiana Department of Revenue in writing within 10 business days of the transfer or sale of credits.

a. No transfer or sale of credits shall be effective until recorded in the tax credit registry in accordance with R.S. 47:1524.

b. The notification shall include the transferor's tax credit balance prior to transfer, a copy of any tax credit certification letter issued by the Department of Economic Development, the transferor's remaining tax credit balance after transfer, all tax identification numbers for both transferor and transferee, the date of the transfer, the amount transferred, a copy of the credit certificate, the price paid by the transferee to the transferor, and any other information required by the Department of Revenue.

c. The notification submitted to the Department of Revenue shall include a transfer processing fee of two hundred dollars per transferee.

d. Failure to comply with this Paragraph shall result in the disallowance of the tax credit until the taxpayers are in full compliance.

3. The transfer or sale of credits does not extend the time in which the credits can be used. The carryforward period for a credit that is transferred or sold begins on the date on which the credit was earned.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:6015.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Business Development, LR 45:221 (February 2019).

Anne Villa
Undersecretary

1902#061

RULE

Board of Elementary and Secondary Education

Bulletin 111—The Louisiana School, District, and State Accountability System—English Language Proficiency Measure of Progress (LAC 28:XI.405 and 409)

Under the authority granted in R.S. 17:6 and in accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education has amended *Bulletin 111—The Louisiana School, District, and State Accountability System*. The amendments include a measure of progress to English language proficiency for English learners in the assessment index of the accountability formula. This Rule is hereby adopted on the day of promulgation.

Title 28

EDUCATION

Part XI. Accountability/Testing

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

Chapter 4. Assessment and Dropout/Credit Accumulation Index Calculations

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

A. ...

* * *

B. Beginning no earlier than the 2019-2020 school year, the kindergarten through eighth grade assessment index will also include a measure of progress to English language proficiency for English learners. The improvement of every English learner eligible to participate in ELPT counts in equal weight to all other exams.

1. The 2018-2019 school year will be a designated learning year.

a. English language proficiency progress results will be calculated but not included in 2018-2019 school performance scores.

b. As required by the federal Every Student Succeeds Act (ESSA), performance on the English language proficiency progress measure will be used for the purpose of identifying schools requiring comprehensive intervention in 2018-2019.

c. The Accountability Commission will review learning year results no later than August 2019.

2. For measuring progress on the ELPT assessment, the overall proficiency scores will be organized into the following levels:

a. emerging—all domain scores are one or two;

b. progressing 1—at least one domain score of three and the lowest domain score is one;

c. progressing 2—at least one domain score of three and the lowest domain score is two;

d. progressing 3—at least one domain score of three and the lowest domain score is three; and

e. transitioning—all domain scores are four or five.

3. Each English learner expected trajectory to proficiency will be determined as follows.

a. The initial proficiency level for each English learner will be determined based on the ELPT assessment

results from the school year in which the student was first enrolled in a Louisiana public school and participated in the ELPT assessment.

b. If a student exits the United States for one or more school years following the initial ELPT assessment and later reenrolls in Louisiana, the student will be considered a new student for the purpose of determining the initial proficiency level.

c. For students first identified in prekindergarten through fifth grade, use the initial ELPT proficiency level and number of years identified as defined in the table below.

Trajectory to English Language Proficiency: Students First Identified in Grades PK-5				
Initial ELPT Proficiency Level				Year 5 and Beyond
	Year 2	Year 3	Year 4	
Emerging (E)	P1	P2	P3	T
Progressing 1 (P1)	P2	P3	T	T
Progressing 2 (P2)	P3	T	T	T
Progressing 3 (P3)	T	T	T	T
Transitioning (T)	N/A	N/A	N/A	N/A

d. For students first identified in sixth through twelfth grade, use the initial ELPT proficiency level and number of years identified as defined in the following table.

Trajectory to English Language Proficiency: Students First Identified in Grades 6-12						
Initial ELPT Proficiency Level						Year 7 and Beyond
	Year 2	Year 3	Year 4	Year 5	Year 6	
Emerging (E)	P1	P2	P2	P3	P3	T
Progressing 1 (P1)	P2	P2	P3	P3	T	T
Progressing 2 (P2)	P2	P3	P3	T	T	T
Progressing 3 (P3)	P3	T	T	T	T	T
Transitioning (T)	N/A	N/A	N/A	N/A	N/A	N/A

e. An ELPT score exceeds the trajectory if the score is at least one level higher than expected and meets the trajectory if the score is the same level as expected based on the tables above.

4. The level of progress on the ELPT assessment will be included in the kindergarten through eighth grade assessment index for each English learner according to the following table.

ELPT Progress Assessment Index Points	
Outcome	ELP Index Points
ELPT level exceeds trajectory	150
ELPT level meets trajectory	100
ELPT level is at least one above the prior year	80
ELPT level is the same or lower than the prior year	0

C. ...

D. Weight each ELP index score by six.

E. Sum all weighted subject-test and ELP index scores.

F. Sum all weights applied to subject-test and ELP index scores from the tables in Subsections C and D of this Section.

G. Divide the sum from Subsection F of this Section by the total scores.

H. When eighth grade students only participate in the algebra I exam but not the grade-level math assessment, the algebra I test results will be used in the middle school assessment index (80 for basic, 100 for good/mastery, and 150 for excellent/advanced) and will be weighted by content as noted in the table above. Middle schools will also earn incentive points for all EOC or high school LEAP 2025 scores of good/mastery or excellent/advanced earned during the same year in which the test was administered.

1. Incentive points will be awarded as follows:

- a. excellent or advanced = 50; and
- b. good or mastery = 25.

I. The policy outlined in Subsection G of this Section will also apply to combination schools. The EOC or high school LEAP 2025 score will be used in middle school results for the year in which the assessment is taken, incentive points may be awarded, and the score will be banked for use in the high school score once the student arrives in ninth grade, as outlined in §409.A.3.

J. In the 2017-2018 school year, the science test will be administered as a field test only. When calculating the kindergarten through eighth grade assessment index for the 2017-2018 school year, either the 2015-2016 or 2016-2017 science assessment index, whichever yields the higher school performance score, will be used as the science component of the overall assessment index and will be weighted by the 2017-2018 social studies assessment index tested population in order to limit impact of population changes from prior years.

K. In the 2018-2019 school year, the science test will be operational again. When calculating the kindergarten through eighth grade assessment index, for the 2018-2019 school year, either the 2016-2017 or 2018-2019 science assessment index, whichever yields the higher school performance score, will be used as the science component of the overall assessment index and will be weighted by the 2018-2019 social studies assessment index tested population in order to limit impact of population changes from prior years.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:1021 (June 2006), amended LR 36:1989 (September 2010), LR 38:3106 (December 2012), LR 41:2579 (December 2015), LR 42:548 (April 2016), LR 42:2172 (December 2016), LR 44:448 (March 2018), LR 45:221 (February 2019).

§409. Calculating a 9-12 Assessment Index [Formerly LAC 28:LXXXIII.409]

A. - A.4. ...

B. Beginning no earlier than the 2019-2020 school year, the ninth through twelfth grade assessment index will also include a measure of progress to English language proficiency for English learners. English learner

improvement on the English language proficiency exam counts in equal weight to all other exams.

1. The 2018-2019 school year will be a designated learning year.

a. English language proficiency progress results will be calculated but not be included in 2018-2019 school performance scores.

b. As required by the federal Every Student Succeeds Act (ESSA), performance on the English language proficiency progress measure may be used for the purposes of identifying schools requiring comprehensive intervention in 2018-2019.

c. The Accountability Commission will review learning year results no later than August 2019.

2. For measuring progress on the ELPT assessment, the overall proficiency score will be divided into the following levels:

- a. emerging: all domain scores are one or two;
- b. progressing 1: at least one domain score of three and the lowest domain score is one;
- c. progressing 2: at least one domain score of three and the lowest domain score is two;
- d. progressing 3: at least one domain score of three and the lowest domain score is three; and
- e. transitioning: all domain scores are four or five.

3. Each English learner expected trajectory to proficiency will be determined as follows.

a. The initial proficiency level for each English learner will be determined based on the ELPT assessment results from the school year in which the student was first enrolled in a Louisiana public school and identified as an English learner in 2017-2018, whichever is most recent.

b. For students first identified in prekindergarten through fifth grade, consider the initial ELPT proficiency level and number of years identified using the following table.

Trajectory to English Language Proficiency: Students First Identified in Grades PK-5				
Initial ELPT Proficiency Level	Year 2	Year 3	Year 4	Year 5 and Beyond
Emerging (E)	P1	P2	P3	T
Progressing 1 (P1)	P2	P3	T	T
Progressing 2 (P2)	P3	T	T	T
Progressing 3 (P3)	T	T	T	T
Transitioning (T)	N/A	N/A	N/A	N/A

c. For students first identified in six through twelfth grade, consider the initial ELPT proficiency level and number of years identified using the following table.

Trajectory to English Language Proficiency: Students First Identified in Grades 6-12						
Initial ELPT Proficiency Level	Year 2	Year 3	Year 4	Year 5	Year 6	Year 7 and Beyond
Emerging (E)	P1	P2	P2	P3	P3	T
Progressing 1 (P1)	P2	P2	P3	P3	T	T
Progressing 2 (P2)	P2	P3	P3	T	T	T
Progressing 3 (P3)	P3	T	T	T	T	T
Transitioning (T)	N/A	N/A	N/A	N/A	N/A	N/A

d. An ELPT score exceeds the trajectory if the score is at least one level higher than expected and meets the

trajectory if the score is the same level as expected based on the tables above.

3. The level of progress on the ELPT assessment shall be included in the kindergarten through eighth grade assessment index for each English learner according to the following table.

ELPT Progress Assessment Index Points	
Outcome	ELP Index Points
ELPT level exceeds trajectory	150
ELPT level meets trajectory	100
ELPT level is at least one above the prior year	80
ELPT level is the same or lower than the prior year	0

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:1021 (June 2006), amended LR 33:252 (February 2007), LR 36:1989 (September 2010), LR 37:2118 (July 2011), repromulgated LR 37:2382 (August 2011), amended LR 37:3200 (November 2011), LR 38:1212 (May 2012), LR 38:2357 (September 2012), LR 38:3106 (December 2012), LR 39:305 (February 2013), LR 39:1421 (June 2013), LR 40:1314 (July 2014), LR 41:2579 (December 2015), LR 42:548 (April 2016), LR 44:448 (March 2018), LR 45:222 (February 2019).

Shan N. Davis
Executive Director

1902#047

RULE

Board of Elementary and Secondary Education

Bulletin 129—The Recovery School District—Budget Reporting (LAC 28:CXLV.1103 and 1105)

Under the authority granted in R.S. 17:6 and in accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education has amended *Bulletin 129—The Recovery School District* in order align Recovery School District (RSD) budget reporting with other budget reviews and approvals conducted by BESE. This Rule is hereby adopted on the day of promulgation.

**Title 28
EDUCATION**

Part CXLV. Bulletin 129—The Recovery School District Chapter 11. Fiscal Management §1103. Annual Budget

- A. ...
- B. The RSD direct-operated and charter-operated schools shall budget on a fiscal year basis, July 1 through June 30.
- C. The revenues/receipts and expenditures disbursements in the RSD budget shall be listed and classified in such manner and substance as prescribed by the Division of Administration (DOA).

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), 17:10.5(A)(1), 17:10.7(A)(1), and 17:1990(A)(2).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 37:310 (January 2011), amended LR 42:553 (April 2016), LR 45:223 (February 2019).

§1105. Budget Planning, Preparation, and Schedules

A. The RSD shall annually present the budget proposal to BESE for approval prior to submission to the DOA and a report on the status of the budget following the approval by the legislature.

B. - D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), R.S. 17:10.5(A)(1), 17:10.7(A)(1), and 17:1990(A)(2).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 37:311 (January 2011), amended LR 42:553 (April 2016), LR 45:224 (February 2019).

Shan N. Davis
Executive Director

1902#046

RULE

Board of Elementary and Secondary Education

Bulletin 137—Louisiana Early Learning Center Licensing Regulations—Owners, Directors and Director Designees of Type III Early Learning Centers—Fraud and Felony Limitations (LAC 28:CLXI.Chapter 18)

Under the authority granted in R.S. 17:6 and in accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education has amended LAC 28:CLXI.Chapter 18 in *Bulletin 137—Louisiana Early Learning Center Licensing Regulations*. The revisions pertain to owners, directors and director-designees of type III early learning centers, by limiting crimes of fraud to felonies within the past 10 years. They also provide for a BESE review for these crimes as well if the conviction was less than 10 years ago. This Rule is hereby adopted on the day of promulgation.

Title 28

EDUCATION

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

Chapter 18. Child Care Criminal Background Checks (CCCBC)

§1805. Persons Ineligible for Child Care Purposes

A. - C. ...

D. In addition, for type III centers an owner, director, or director designee shall not have been convicted of, or pled guilty or nolo contendere to a felony, within the past 10 years, for any of the following crimes of fraud:

- 1. 18 U.S.C. 287 and 1341 and R.S. 14:67.11, 14:68.2, 14:70.1, 14:70.4, 14:70.5, 14:70.7, 14:70.8, 14:71, 14:71.1, 14:71.3, 14:72, 14:72.1.1, 14:72.4, 14:73.5, and 14:133.

AUTHORITY NOTE: Promulgated in accordance with 45 CFR 98.43 and R.S. 15:587.1 and 407.42.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 44:252 (February 2018), effective March 1, 2018, amended LR 45:224 (February 2019).

§1806. Types of CCCBC-based Determinations of Eligibility for Child Care Purposes

A. There are two types of CCCBC-based determinations of eligibility for child care purposes:

- 1. “owner/director/director designee of type III centers” determinations of eligibility are required for

owners, directors and director designees of type III centers; and

- 2. “child care staff member” determinations of eligibility are required for owners, directors and director designees of type I and type II centers and volunteers, staff, visitors, contractors and other persons providing services in any type of child care centers when children are present.

B. A person with an “owner/director/director designee of type III centers” determination of eligibility also has a “child care staff member” determination of eligibility.

C. A person with a “child care staff member” determination of eligibility does not have an “owner/director/director designee of type III centers” determination of eligibility.

- 1. For a person with a “child care staff member” determination of eligibility, a type III center must obtain an “owner/director/director designee of type III centers” determination of eligibility before that person can become an owner, director or director designee of the type III center.

- 2. To obtain an “owner/director/director designee of type III centers” determination of eligibility for a person with a valid “child care staff member” determination of eligibility, the type III center must request the subsequent determination from the department.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 45:224 (February 2019).

§1819. Termination of Employment and Removal from Center and Premises

A. - C. ...

D. Exception for Owners, Directors and Director Designees of Type III Centers with Notices of Ineligibility

- 1. Upon receipt of notice from the department that an owner, director or director designee of a type III center is ineligible for child care purposes based solely on a crime of fraud listed in §1805.D of this Chapter, the owner, director or director designee of the type III center may remain on the premises pending a review of the determination of ineligibility by BESE, provided the owner, director or director designee of the type III center timely submits the following:

- a. a written request to BESE staff for a review of the determination of ineligibility pursuant to §1823 of this Chapter within 15 business days of receipt of the notice of ineligibility from the department; and

- b. documentation listed in §1823.D and E.2 of this Chapter to BESE staff within 30 business days of receipt of the notice of ineligibility from the department.

- 2. If the owner, director or director designee of the type III center:

- a. fails to timely comply with Paragraph 1 of this Subsection;

- b. chooses not to request a records review for the notice of ineligibility; or

- c. remains ineligible because BESE declines to conduct a review of the determination, or BESE determines that the owner, director or director designee of the type III center shall remain ineligible, then the requirements in:

- i. Subsection A of this Section shall apply to directors and director designees of the type III center who are not also owners, or the director or director designee of

the type III center may continue to work as a staff member at the type III center other than the director or director designee, or as any type of staff member at a type I or type II center, including the director or the director designee of the type I or type II center; and

ii. Subsection B of this Section shall apply to all owners of type III centers, whether or not they are directors or director designees of type III centers in that such owners must:

(a). divest ownership of the type III center within 30 calendar days of receipt of the original notice of ineligibility from the department if no records review is requested, or within 30 calendar days of receipt of notice of continuing ineligibility from BESE if a records review is requested. The owner may continue to work at the center as a staff member other than the director or director designee, but may not continue to own the center; or

(b). change license types for the center from a type III to a type I or type II license within 30 calendar days of receipt of the original notice of ineligibility from the department if no records review is requested, or within 30 calendar days of receipt of notice of continuing ineligibility from BESE if a records review is requested and then may continue to own the center.

AUTHORITY NOTE: Promulgated in accordance with 45 CFR 98.43 and R.S. 15:587.1 and 407.42.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 44:255 (February 2018), effective March 1, 2018, amended LR 45:224 (February 2019).

§1823. Review of Determinations of Ineligibility for Owners, Directors, or Director Designees of Type III Centers

A. A review of a determination of ineligibility for owners, directors or director designees of type III centers shall not be considered if it is based in part on any crime or event listed in §1805.A through C of this Chapter.

B. A review of a determination of ineligibility may only be considered for owners, directors or director designees of type III centers if the determination is based solely on a crime of fraud listed in §1805.D of this Chapter.

C. A review of a determination of ineligibility based solely on a crime of fraud listed in §1805.D of this Chapter shall not be considered until at least five years have lapsed from the date of entry of the final conviction or plea which resulted in the determination of ineligibility.

D. An applicant may apply to the Board of Elementary and Secondary Education (BESE) for a review of his/her determination of ineligibility based solely on a crime of fraud listed in §1805.D of this Chapter after the lapse of time indicated above and under the following conditions:

1. There are no other crimes or events that would render the applicant ineligible to be an owner, director, or director designee of a type III center pursuant to §1805 of this Chapter other than a crime of fraud listed in §1805.D of this Chapter; and

2. There has been successful completion of all conditions/requirements of any parole or probation.

E. The applicant must provide relevant documentation, including:

1. documentation from the department that the determination of ineligibility is based solely on a crime of fraud listed in §1805.D of this Chapter and there are no other crimes or events that would prohibit the applicant from

being eligible to be an owner, director, or director designee of a type III center; and

2. relevant documentation of all conditions and requirements of any parole and/or probation.

F. Applicant's responsibilities are as follows:

1. contact the BESE office and submit a written request for a review of records for a determination of ineligibility as an owner, director or director designee of a type III center based on a crime of fraud listed in §1805.D of this Chapter; and

2. provide each applicable item identified in Subsection D of this Section and any evidence of rehabilitation. It is recommended that the applicant provide letters of support from past/present employers, law enforcement officials or other community leaders.

G. BESE's Responsibilities

1. BESE or its designees will consider the request for a review of the determination of ineligibility and the documentation provided. BESE is not required to conduct a review of the determination and may summarily deny a request for review.

2. If BESE or its designees decide to conduct a records review of the determination, BESE staff shall notify the applicant of a date, time, and place when a BESE committee shall consider the applicant's request. Only written documentation provided prior to the records review will be considered.

3. BESE reserves the right to accept or reject any document as evidence of rehabilitation and the right to determine if adequate rehabilitation has occurred and will itself determine if and when an applicant is eligible to be an owner, director or director designee of a type III center pursuant to §1805.D of this Chapter.

4. The BESE committee shall make a recommendation to the full board regarding whether the determination of ineligibility shall be changed to a determination of eligibility. Board staff shall notify the applicant of BESE's action.

5. BESE's action is a final decision and can only be appealed to a court of proper jurisdiction in accordance with law.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 45:225 (February 2019).

Shan N. Davis
Executive Director

1902#045

RULE

Board of Elementary and Secondary Education

Bulletin 741—Louisiana Handbook for School Administrators—Home Study Programs
(LAC 28: CXV. Chapter 33)

Under the authority granted in R.S. 17:6 and in accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education has amended *Bulletin 741—Louisiana Handbook for School Administrators*. The amendments update

terminology and requirements for home study programs. This Rule is hereby adopted on the day of promulgation.

Title 28

EDUCATION

Part CXV. Bulletin 741—Louisiana Handbook for School Administrators

Chapter 33. Home Study Programs

§3301. Definition

Home Study Program—a program that offers a sustained curriculum of quality, at least equal to that offered by public schools at the same grade level, and implemented under the direction and control of a parent, legal guardian, or tutor.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 and 17:236.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1312 (June 2005), amended LR 45:226 (February 2019).

§3305. Application Process

A. Initial Home Study Program Application

1. An initial application must be made within 15 days after the beginning of the program to the LDE, on behalf of BESE, for review and approval.

2. The initial application will be accompanied by a certified copy or a photocopy of the birth certificate of the student. The applicant must certify that the home study program will offer a sustained curriculum of quality at least equal to that offered by public schools at the same grade level.

3. For purposes of compulsory attendance, a child participating in an approved home study program will be considered in attendance in a day school.

B. Home Study Program Application Renewal

1. A renewal application must be made October 1 of the school year, or within 12 months of the approval of the initial application, whichever is later. Parents seeking continued approval are required to submit a renewal application each year.

2. A renewal application will be approved if the applicant submits to the LDE satisfactory evidence that the program offers a sustained curriculum of quality at least equal to that of public schools at the same grade level.

C. Initial and renewal applications will be approved if found to meet the requirements set forth in R.S. 17:236.1. Upon LDE approval, parents will receive an official approval verification letter. Because state law does not provide for any exceptions for the deadline for the approval of a home study program and does not allow for retroactive approval of a previous school year, it is the parent's responsibility to maintain a record of annual home study participation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 and 17:236.1.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1312 (June 2005), amended LR 39:2229 (August 2013), LR 45:226 (February 2019).

§3307. Instructor

A. A parent, legal guardian, or tutor will be permitted to provide instruction in a home study program.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 and 17:236.1.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1312 (June 2005), amended LR 45:226 (February 2019).

§3309. Curriculum

A. - A.4. ...

B. A high school diploma awarded by a home study program approved by LDE, on behalf of BESE, is deemed by all public postsecondary education institutions, state departments, agencies, boards, commissions, and other state and local governmental entities to have the same rights and privileges afforded to a high school diploma awarded by a state-approved nonpublic school.

C. Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 and 17:236.1.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1312 (June 2005), amended LR 37:1137 (April 2011), LR 39:2229 (August 2013), LR 42:1879 (November 2016), LR 45:226 (February 2019).

§3311. Testing

A. A parent or court-appointed custodian of a student in a home study program may request of the LEA superintendent or the state superintendent that the student be administered the LEAP tests in grades 3-8 under the following conditions:

1. - 5. ...

B. Students enrolled in state-approved home study programs are not eligible to participate in LEAP connect, ELPT, or EOC tests.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 and 17:236.1.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1313 (June 2005), amended LR 37:1138 (April 2011), LR 45:226 (February 2019).

§3313. Admission or Readmission to the Public School System

A. ...

1. The policy includes a placement exam to determine grade-level placement.

2. Repealed.

B. - B.3. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 and 17:236.2.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1313 (June 2005), amended LR 39:2230 (August 2013), LR 45:226 (February 2019).

§3315. Due Process

A. No public school will deny admission or readmission of a home study program student if that student is otherwise eligible for enrollment in a public school pursuant to state law, the policies of the local school board, and the Board of Elementary and Secondary Education.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 and 17:236.1.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1313 (June 2005), amended LR 45:226 (February 2019).

§3317. Cost

A. All costs directly attributed to the home study program will be borne by the parent or court appointed custodian approved to offer such program.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 and 17:236.1.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1313 (June 2005), amended LR 39:2230 (August 2013), LR 45:226 (February 2019).

Shan N. Davis
Executive Director

1902#031

RULE

Board of Elementary and Secondary Education

Bulletin 741—Louisiana Handbook for School Administrators—STEM Diploma Endorsements (LAC 28:CXV.2317)

Under the authority granted in R.S. 17:6 and in accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education has amended *Bulletin 741—Louisiana Handbook for School Administrators*. The amendments establish STEM diploma endorsements recognizing high school students who exhibit academic achievement in STEM discipline subjects. Students completing the required coursework in the BESE approved Jumpstart STEM pathways of LSU Digital Design and Emergent Media, LSU Pre-Engineering, and Environmental Protection and Sustainability will receive an endorsement on their high school diploma. This Rule is hereby adopted on the day of promulgation.

Title 28

EDUCATION

Part CXV. Bulletin 741—Louisiana Handbook for School Administrators

Chapter 23. Curriculum and Instruction

Subchapter A. Standards and Curricula

§2317. High Schools

A. - J.3.b. ...

K. Science, Technology, Engineering, and Mathematics (STEM) Diploma Endorsement

1. Beginning with the 2018-2019 school year, high school students completing specified courses in STEM discipline subjects that comprise Jump Start STEM pathways will be eligible to receive the STEM diploma endorsement.

a. The STEM diploma endorsement is indicated with a silver diploma seal and is awarded to students who successfully complete a subset of required courses within a BESE-approved Jump Start STEM pathway, set forth by the LDE. The LDE will annually publish on its website a list of courses required for the STEM endorsement for each graduating class prior to the beginning of each school year and shall notify each LEA of any additions or revisions.

b. The advanced STEM diploma endorsement is indicated with a gold seal and is awarded to students who successfully complete all courses that make up a BESE-approved Jump Start STEM pathway.

2. Each LEA must:

a. provide information regarding the requirements to attain a STEM diploma endorsement to students and their parents or legal custodians as part of the individual

graduation plan developed beginning in the eighth grade and updated annually; and

b. maintain records needed to verify the eligibility of students who have attained a STEM diploma endorsement, denote such attainment on the student transcript, and affix the applicable diploma seal to the high school diploma.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6, 17:7, 17:154, 17:1944, 17:1945, and 17:4073.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1291 (June 2005), amended LR 36:1485 (July 2010), LR 37:1137 (April 2011), LR 38:754 (March 2012), LR 39:1038 (April 2013), LR 39:2216 (August 2013), LR 40:1328 (July 2014), repromulgated LR 40:1528 (August 2014), amended LR 40:2530 (December 2014), LR 45:227 (February 2019).

Shan N. Davis
Executive Director

1902#044

RULE

Board of Elementary and Secondary Education

Bulletin 746—Louisiana Standards for State Certification of School Personnel—PRAXIS Scores, Endorsements, and Certification—Mathematics (LAC 28:CXXXI.203, 348 and 648)

Under the authority granted in R.S. 17:6 and in accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education has amended *Bulletin 746—Louisiana Standards for State Certification of School Personnel*. The amendments are related to PRAXIS scores, endorsements, and certification in the area of mathematics, requiring applicants to pass the middle school mathematics PRAXIS (5169) and the algebra I content exam (5162). Applicants will be required to hold a level 1 or higher certificate. These amendments allow candidates holding a "math for professionals" certificate to teach full- or part-time. This Rule is hereby adopted on the day of promulgation.

Title 28

EDUCATION

Part CXXXI. Bulletin 746—Louisiana Standards for State Certification of School Personnel

Chapter 2. Initial Teacher Certification

Subchapter B. Testing Required for Certification Areas

§203. PRAXIS Exams and Scores (Formerly §243)

A. - B. ...

* * *

C. Certification Areas

1. Grades 6-12 Certification

Grades 6-12 Certification Areas					
Certification Area	Name of PRAXIS Test	Score			PLT 7-12
Agriculture	Agriculture (0700) Prior to 6/8/14	510	---	---	157
	Agriculture (5701) Effective 6/8/14	147			

Grades 6-12 Certification Areas					
Certification Area	Name of PRAXIS Test	Score			PLT 7-12
Algebra I	Algebra I (5162) Effective 8/14/18	157			
	Middle School Mathematics (5169)	165			
* * *					

* * *

C.2. - D. ...

* * *

E. Administrative and Instructional Support Areas

Certification Area	Name of PRAXIS Test	Area Test Score
Educational Leader—Level 1	School Leaders Licensure Assessment (1011 or 6011)	166
	School Leaders Licensure Assessment (6990) Effective 9/1/2019	151 (Effective 9/1/2019)
* * *		

All Praxis scores used for certification must be sent directly from ETS to the state Department of Education electronically, or the original PRAXIS score report from ETS must be submitted with the candidate's application.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), (11), and (15), 17:7(6), 17:10, 17:22(6), 17:391.1-391.10, and 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:1833 (October 2006), amended LR 36:485 and 488 (March 2010), LR 36:2265 (October 2010), LR 37:551 (February 2011), repromulgated LR 37:556 (February 2011), amended LR 37:3210 (November 2011), LR 39:1461 (June 2013), LR 40:277 (February 2014), LR 40:1680 (September 2014), LR 41:645 (April 2015), LR 41:916 (May 2015), LR 42:233 (February 2016), LR 43:1292 (July 2017), LR 44:264 (February 2018), LR 45:228 (February 2019).

Chapter 3. Teaching Authorizations and Certifications

Subchapter C. Ancillary Teaching Certificates

§348. Math for Professionals Certificate

A. ...

B. Math for professionals certificate is valid for three years initially and allows an individual to teach one or more mathematics courses.

1. - 3. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), (11), and (15), 17:7(6), 17:10, 17:22(6), 17:391.1-391.10, and 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 35:220 (February 2009), amended LR 39:1463 (June 2013), LR 40:281 (February 2014), LR 45:228 (February 2019).

Chapter 6. Endorsements to Existing Certificates

Subchapter C. All Other Teaching Endorsement Areas

§648. Algebra I

A. Eligibility requirements:

1. valid level 1 Louisiana teaching certificate or higher;
2. pass the PRAXIS middle school mathematics exam (5169);
3. pass the algebra I PRAXIS exam (5162).

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), (11), and (15), 17:7(6), 17:10, 17:22(6), 17:391.1-391.10, and 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 34:1386 (July 2008), amended LR 39:1465 (June 2013), LR 40:281 (February 2014), LR 45:228 (February 2019).

Shan N. Davis
Executive Director

1902#049

RULE

Board of Elementary and Secondary Education

Mentor Teacher and Content Leader Credentials
(LAC 28:XLV.303, 401, 743, and 747; CXXXI.203, 240,
Chapter 3, Chapter 7 and 1001; CXXXVII.301; and
CXLVII.101 and Chapter 3)

Under the authority granted in R.S. 17:6 and in accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education has amended:

Bulletin 996—Standards for Approval of Teacher and/or Educational Leader Preparation Programs,

Bulletin 746—Louisiana Standards for State Certification of School Personnel,

Bulletin 125—Standards for Educational Leaders in Louisiana, and

Bulletin 130—Regulations for the Evaluation and Assessment of School Personnel.

The amendments establish mentor teacher and content leader credentials and provide for mentor and content leader training, experience, and credentialing to contribute to school leader licensure. This Rule is hereby adopted on the day of promulgation.

Title 28

EDUCATION

Part XLV. Bulletin 996—Standards for Approval of Teacher and/or Educational Leader Preparation Programs

Chapter 3. Initial State Approval for Teacher or Educational Leader Preparation Programs

§303. Initial Approval [Formerly §203]

A. - K. ...

L. Providers seeking approval to offer a mentor teacher or content leader training program must submit:

1. a proposal from the director of the institution or organization that outlines the training design, coursework, and a system for evaluating the quality of training content, delivery, and operations, including analysis of the performance of participants;
2. evidence to show that the governing authority of the institution or organization endorses and financially supports mentor teacher or content leader training;
3. a full budget report for the implementation of training, including internal and external sources of funding;

a. university-based BESE-approved teacher preparation providers are exempt from this requirement;

4. evidence that the training program, if offered as a university course, will be offered for graduate credit; and

5. any additional information required by the state superintendent of education.

M. Mentor teacher and content leader training proposals will be accepted by the LDE and considered at least twice per year by BESE, beginning in the fall of 2019.

N. The LDE will review applications from providers to offer mentor teacher or content leader training. The state superintendent will provide a recommendation for the board's consideration for each complete application received. Upon approval by BESE, the provider may begin admitting candidates to the mentor teacher or content leader training program.

O. Candidates completing training programs from providers or programs not approved by BESE in accordance with this Section will not qualify to receive an ancillary certificate as a mentor teacher or content leader in accordance with LAC 28:CXXXI (Bulletin 746).

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(10), 17:7(6), and 17:7.2.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 30:2453 (November 2004), amended LR 35:2327 (November 2009), LR 37:561 (February 2011), LR 43:2486 (December 2017), LR 45:228 (February 2019).

Chapter 4. Teacher and Leader Preparation Program Accountability, Renewal, and Approval

§401. Ongoing Approval of Teacher and Leader Preparation Programs [Formerly §1101]

A. - D.2.d. ...

E. Certification Preparation. In order to offer state-approved mentor teacher or content leader training that prepares individuals to earn a mentor teacher ancillary certificate or a content leader ancillary certificate in accordance with LAC 28:CXXXI (Bulletin 746), providers must follow the process detailed in Chapter 3 of this Part. For continued state approval, providers must demonstrate that training participants are earning effective ratings on the Louisiana mentor teacher assessment series or the Louisiana content leader assessment series.

F. Provider Effectiveness. By no later than December 1, 2019, and biannually thereafter, the LDE will review and report to BESE effectiveness data of each approved provider offering mentor teacher or content leader training. Effectiveness data will include Louisiana mentor teacher assessment series or Louisiana content leader assessment series passage rates and may include additional information. Based upon these results, BESE may require an improvement plan or may discontinue the provider's ability to recommend candidates for mentor teacher or content leader certification.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(10), 17:7(6), and 17:7.2.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 36:754 (April 2010), amended LR 37:565 (February 2011), LR 43:2488 (December 2017), LR 45:229 (February 2019).

Chapter 7. Louisiana State Standards for Educator Preparation Programs

Subchapter C. Teacher Preparation Programs

§743. Minimum Requirements for Traditional Teacher Preparation Programs

A. - C.1. ...

2. a one-year residency shall take place in a public or approved non-public school classroom in the certification area with a teacher of record who holds a valid level 1, 2, 3, type A, or type B teaching certificate in the area for which the candidate is pursuing certification in accordance with LAC 28:CXXXI (Bulletin 746). Beginning September 1, 2020, the teacher of record shall be required to hold a provisional mentor teacher ancillary certificate or a mentor teacher ancillary certificate in accordance with LAC 28:CXXXI (Bulletin 746). The residency may include practice with other teachers in a public or approved non-public school setting. Residents placed in charter schools must be placed with a teacher of record who has demonstrated effectiveness in accordance with LAC 28:CXLVII (Bulletin 130):

C.2.a. - E.2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), (11), and (15), 17:7(6), 17:10, 17:22(6), 17:391.1-391.10, and 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 43:1330 (July 2017), amended LR 43:2492 (December 2017), LR 45:229 (February 2019).

Subchapter D. Alternate Educational Leader Preparation Programs

§747. Educational Leader Practitioner (Residency) Program

A. State-approved non-university providers and Louisiana colleges or universities may choose to offer an educational leader practitioner (residency) program for certifying successful candidates for educational leader, level 1 certification. (Two additional alternate paths are available to individuals seeking an educational leader certificate level 1; see LAC 28:CXXXI.Chapter 7 (Bulletin 746), for paths 1 and 2.) Educational leader practitioner program providers must submit a program proposal to the Louisiana Department of Education. Programs will be reviewed for adherence to program requirements, and may be recommended to BESE for approval status.

1. - 4.b.iii. ...

iv. A minimum of 45 contact hours (or 3 credit hours) may be earned through service as a mentor teacher or content leader in accordance with LAC 28:CXXXI (Bulletin 746), during the first or second session.

5. - 10. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), (11), and (15), 17:7(6), 17:10, 17:22(6), 17:391.1-391.10, and 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 43:1333 (July 2017), amended LR 45:229 (February 2019).

Part CXXXI. Bulletin 746—Louisiana Standards for State Certification of School Personnel

Chapter 2. Initial Teacher Certification
Subchapter B. Testing Required for Certification

§203. Certification Exams and Scores
[Formerly §243]

A. - D. ...

E. Administrative and Instructional Support Areas

Certification Area	Name of Test	Area Test Score
Mentor Teacher	Louisiana Mentor Teacher Assessment Series—Elementary	6
	Louisiana Mentor Teacher Assessment Series—Secondary ELA	4
	Louisiana Mentor Teacher Assessment Series—Secondary Math	
	Louisiana Mentor Teacher Assessment Series—Universal	
Content Leader	Louisiana Content Leader Assessment Series	5

All Praxis scores used for certification must be sent directly from ETS to the state Department of Education electronically, or the original Praxis score report from ETS must be submitted with the candidate’s application. The mentor teacher certificate may be earned by passing one of the cohort-specific Louisiana mentor teacher assessment series tests.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), (11), and (15), 17:7(6), 17:10, 17:22(6), 17:391.1-391.10, and 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:1833 (October 2006), amended LR 36:485 and 488 (March 2010), LR 36:2265 (October 2010), LR 37:551 (February 2011), repromulgated LR 37:556 (February 2011), amended LR 37:3210 (November 2011), LR 39:1461 (June 2013), LR 40:277 (February 2014), LR 40:1680 (September 2014), LR 41:645 (April 2015), LR 41:916 (May 2015), LR 42:233 (February 2016), LR 43:1292 (July 2017), LR 44:264 (February 2018), LR 45:230 (February 2019).

Subchapter H. Other Certification Area Competencies

§240. Educational Leader Practitioner (Residency) Program

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), (11), and (15), 17:7(6), 17:10, 17:22(6), 17:391.1-391.10, and 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 33:818 (May 2007), amended LR 38:42 (January 2012), amended LR 38:765 (March 2012), LR 39:1461 (June 2013), repealed LR 45:230 (February 2019).

Chapter 3. Teaching Authorizations and Certifications

Subchapter C. Ancillary Teaching Certificates

§341. Introduction

A. Types of Ancillary Certificates

1. Ancillary certificates are issued by the LDE for individuals who provide teaching, support, administrative, or supervisory services to children in pre-kindergarten through twelfth grade schools and early learning centers serving children from birth to five years old.

a. See Chapter 4 of this Part regarding ancillary certificates issued for individuals who provide support services in pre-kindergarten through twelfth grade schools and early learning centers serving children from birth to five years old.

b. See Chapter 7 of this Part regarding ancillary certificates issued for individuals who provide administrative and supervisory services in pre-kindergarten through twelfth grade schools.

2. Types of ancillary teaching certificates are as follows:

- a. ancillary artist or talented;
- b. early childhood ancillary;
- c. nonpublic Montessori teacher;
- d. family and consumer sciences (occupational programs);
- e. Junior Reserve Officers Training Corps (JROTC) instructor;
- f. math for professionals;
- g. mentor teacher ancillary; and
- h. content leader ancillary.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), (11), and (15), R.S. 17:7(6), R.S. 17:10, R.S. 17:22(6), R.S. 17:391.1-391.10, and R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:1805 (October 2006), amended LR 41:917 (May 2015), LR 45:230 (February 2019).

§350. Mentor Teacher Ancillary Certificate

A. Beginning September 1, 2020, the mentor teacher ancillary certificate will be required for individuals who serve as a mentor of undergraduate or post-baccalaureate teacher residents.

B. Provisional Certification. Individuals serving as mentors who have not successfully completed a BESE-approved mentor training program will be issued a nonrenewable provisional mentor teacher ancillary certificate, which is valid for one calendar year from the date of issuance while the holder completes a BESE-approved mentor training program.

1. Eligibility requirements for the provisional mentor teacher ancillary certificate are as follows. A teacher must:

- a.i. hold, or be eligible to hold, a valid type C, level 1 or higher Louisiana teaching certificate; or
- ii. have at least two years of successful teaching in accordance with LAC 28:CXLVII (Bulletin 130) and R.S. 17:3902, if teaching in a charter school without a valid type C, level 1 or higher certificate; and
- b. enroll in a BESE-approved mentor training program.

C. Certification. Individuals who have completed a BESE-approved mentor teacher training program and have a passing score on the Louisiana mentor teacher assessment series will be issued a mentor teacher ancillary certificate.

1. Eligibility requirements for the mentor teacher ancillary certificate are as follows. A teacher must:

- a.i. hold, or be eligible to hold, a valid type C, level 1 or higher Louisiana teaching certificate; or
- ii. have at least two years of successful teaching, in accordance with LAC 28:CXLVII (Bulletin 130) and R.S. 17:3902, if teaching in a charter school;
- b. successfully complete a BESE-approved mentor teacher training program; and

c. have a passing score on the Louisiana mentor teacher assessment series.

2. Individuals who successfully completes LDE mentor teacher training from November 1, 2017 through July 31, 2020, are eligible for the mentor teacher ancillary certificate after passing the Louisiana mentor teacher assessment series.

3. Individuals who hold National Board certification are eligible for mentor teacher ancillary certification after passing the coaching-related components of the Louisiana mentor teacher assessment series.

4. On September 1, 2023, the mentor teacher ancillary certificate will replace the supervisor of student teaching certificate. Individuals who were issued the supervisor of student teaching certificate on or before December 31, 2018, may serve as a mentor until August 31, 2023.

D. Certification Issuance. The LDE will begin issuing mentor teacher ancillary certificates no later than July 1, 2019.

E. Renewal Guidelines. Mentor teacher ancillary certificates are valid for five years and may be renewed at the request of the employing authority.

1. A request from an employing authority to renew a level 1, 2, or 3 certificate shall also serve as the request to renew the mentor teacher ancillary certificate.

2. Teachers in charter schools who do not hold a level 1, 2, or 3 certificate must successfully meet the standards of effectiveness for at least three years during the five-year renewal period in accordance with LAC 28:CXLVII (Bulletin 130) and R.S. 17:3902 in order to renew the mentor teacher ancillary certificate.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 and 17:3902.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 45:230 (February 2019).

§351. Content Leader Ancillary Certificate (Optional)

A. The content leader ancillary certificate is an optional certificate that districts may require.

1. Eligibility requirements for the content leader ancillary certificate include that the candidate must:

a.i. hold, or be eligible to hold, a valid type C, level 1, or higher Louisiana teaching certificate; or

ii. have at least two years of successful teaching in accordance with LAC 28:CXLVII (Bulletin 130) and R.S. 17:3902, if teaching in a charter school without a valid type C, level 1 or higher certificate;

b. successfully complete a BESE-approved content leader training program; and

c. have a passing score on the Louisiana content leader assessment series (see §203 of this Part).

2. Individuals who have successfully completed LDE content leader training from November 1, 2017 through July 31, 2020, in accordance with Paragraph 1 of this Subsection, are eligible for content leader ancillary certification.

B. The LDE will begin issuing content leader ancillary certificates to candidates no later than July 1, 2019.

C. Renewal Guidelines. The content leader ancillary certificate is valid for a period of five years and may be renewed at the request of the employing authority.

1. A request from an employing authority to renew a level 1, 2, or 3 certificate shall also serve as the request to renew the content leader ancillary certificate.

2. Teachers in charter schools who do not hold a level 1, 2, or 3 certificate must successfully meet the standards of effectiveness for at least three years during the five-year renewal period in accordance with LAC 28:CXLVII (Bulletin 130) and R.S. 17:3902.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 and 17:3902.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 45:231 (February 2019).

Chapter 7. Administrative and Supervisory

Credentials

Subchapter A. The Educational Leadership Certificate

§703. Introduction

A. The educational leadership certification structure provides for four levels of leader certification: teacher leader; educational leader level 1; educational leader level 2; and educational leader level 3. The teacher leader certificate is an option for a teacher to be identified as a teacher leader; it is not a state required credential for a specific administrative position. The educational leader level 1 certificate is an entry-level certificate for individuals seeking to qualify for school and/or district leadership positions (e.g., assistant principals, principals, parish or city supervisors of instruction, supervisors of child welfare and attendance, special education supervisors, or comparable school/district leader positions). An individual moves from a level 1 to a level 2 certificate after successfully meeting standards of effectiveness for three years pursuant to Bulletin 130 and R.S. 17:3902, and completing the required years of experience. The level 3 certificate qualifies an individual for employment as a district superintendent.

1. Teacher Leader. The teacher leader certificate is an option for a teacher to be identified as a teacher leader, and it is not a state-required credential for a specific administrative position.

2. Educational Leader, Level 2. An individual qualifies to upgrade from an educational leader, level 1 to an educational leader, level 2 certificate by:

a. successfully meeting standards of effectiveness for three years in accordance with LAC 28:CXLVII (Bulletin 130) and R.S. 17:3902; and

b. completing the required years of experience.

3. Educational Leader, Level 3. The educational leader, level 3 certificate qualifies an individual for employment as a district superintendent.

B. Educational leadership preparation programs and induction programs must be aligned with state and national standards in accordance with LAC 28:CXXXVII.301 (Bulletin 125).

1. - 3. Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), (11), and (15), 17:7(6), 17:10, 17:22(6), 17:391.1-391.10, 17:411, and 17:3902.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:1822 (October 2006), amended LR 33:819 (May 2007), LR 38:42 (January 2012), LR 38:3138 (December 2012), LR 39:1465 (June 2013), LR 45:231 (February 2019).

§705. Educational Leader, Level 1 (EDL 1) Certificate

A. The EDL 1 certificate is needed for school and district educational leadership positions (e.g., assistant principal, principal, parish or city supervisor of instruction, supervisor of child welfare and attendance, special education

supervisor, or comparable school/district leader positions). The certificate is issued upon the request of the LEA once the individual is hired to serve as an educational leader. An EDL 1 certificate may be obtained through either a master's degree pathway or through one of three alternate pathways.

1. - 1.a. ...

b. complete a competency-based graduate degree preparation program in the area of educational leadership from a regionally accredited institution of higher education, which may be inclusive of BESE-approved mentor teacher or content leader training; and

1.c. - 2.b. ...

c. meet competency-based requirements, as demonstrated by completion of an individualized program of educational leadership from a regionally accredited institution of higher education. An individualized program will be developed based on a screening of candidate competencies upon entering into a graduate alternative certification program. Service as a mentor teacher, content leader, or BESE-approved mentor teacher or content leader training may fulfill a maximum of 40 percent of an individualized program; and

2.d. - 3.b. ...

c. provide documented evidence of leadership experiences (240 clock hours or more) at the school and/or district level, including service as a mentor teacher or content leader (up to 100 clock hours); and

3.d. - 4.b. ...

c. complete a competency-based educational leader practitioner/residency preparation program in the area of educational leadership from a non-university provider or a regionally-accredited institution of higher education. Service as a mentor teacher, content leader, or BESE-approved mentor teacher or content leader training may fulfill a maximum of 40 percent of the competency-based program; and

4.d. - 6. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), (11), and (15), R.S. 17:7(6), R.S. 17:10, R.S. 17:22(6), R.S. 17:391.1-391.10, and R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:1823 (October 2006), amended LR 33:819 (May 2007), LR 38:43 (January 2012), LR 38:3138 (December 2012), LR 39:1465 (June 2013), LR 43:1313 (July 2017), LR 45:231 (February 2019).

§713. Educational Leader Certification Implementation Timeline

A. By the spring of 2019, the LDE will:

1. develop and recommend to BESE the adoption of a Louisiana leadership assessment series (LLAS) that serves as an alternative to the Praxis school leaders licensure assessment (SLLA) and that will be inclusive of assessment components from the Louisiana mentor teacher assessment series and the Louisiana content leader assessment series;

2. pilot and study the LLAS in the winter of 2019, to ensure suitability for its use as a required assessment for the educational leader level 1 certification:

a. candidates for the educational leader, level 1 certification who earn a passing score on the LLAS during the pilot phase will be eligible for the educational leader, level 1 certificate, provided that the candidate has met all other requirements for the master's degree pathway or one of three alternate pathways; and

3. review and report on the efficacy of the assessment, including, but not limited to, the passage rates and the number of educational leader, level 1 certificates issued.

B. Beginning in the spring of 2019, the LDE will begin issuing:

1. mentor teacher ancillary certificates upon successful completion of the Louisiana mentor teacher assessment series in accordance with §350 of this Part; and

2. content leader ancillary certificates upon successful completion of the Louisiana content leader assessment series in accordance with §351 of this Part.

D. Prior to September 1, 2019, the LDE will:

1. review Chapters 3 and 7 of this Part; and

2. recommend revisions to BESE as necessary and based on findings from a learning phase.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 and R.S. 17:3886.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 45:232 (February 2019).

Subchapter D. Educational Leadership Title Equivalencies

§761. Title Equivalencies

A. Certification Endorsement and Licensure Structure

Educational Leadership Title Equivalencies		
Administrative Guidelines per Bulletin 741	Certification Endorsement Prior to Educational Leader Licensure Structure	Certification under Educational Leader Licensure Structure
* * *		
Child Welfare and Attendance Supervisor	Supervisor of Child Welfare and Attendance and/or Visiting Teacher	Educational Leader Level 1 Educational Leader Level 2
Principal or Assistant Principal	Provisional Elementary Principal Elementary Principal Provisional Secondary Principal Secondary Principal Provisional Principal Principal Combination School Principal	Educational Leader Level 1 Educational Leader Level 2
Supervisor	Parish/City Supervisor of Instruction	Educational Leader Level 1 Educational Leader Level 2

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), (11), and (15), 17:7(6), 17:10, 17:22(6), 17:391.1-391.10, and 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:1828 (October 2006), amended LR 45:232 (February 2019).

Subchapter E. All Other Supervisory Endorsements §787. Supervisor of Student Teaching Certificate

A. - B.4. ...

C. On September 1, 2023 the mentor teacher ancillary certificate will replace the supervisor of student teaching certificate. Educators who were issued a supervisor of student teaching certificate on or before December 31, 2018, may serve as a mentor teacher until August 31, 2023.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), (11), and (15), 17:7(6), 17:10, 17:22(6), 17:391.1-391.10, and 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:1829 (October 2006), amended LR 37:2136 (July 2011), LR 45:232 (February 2019).

Chapter 10. Definitions

§1001. Terms

* * *

Content Leader—a teacher who is responsible for delivery of professional development aligned with state academic standards. The content leader is formally certified and has the knowledge, skills, and resources to provide high-quality, content-rich, and curriculum-specific professional development to yearlong residents, new teachers, and/or developing teachers in need of instructional support.

Content Leader Ancillary Certificate—a type of certificate that authorizes an individual to serve as a school- or district-based instructional expert who is responsible for delivery of professional development that is aligned with state content standards found throughout the Louisiana Administrative Code, Title 28, Education.

* * *

Mentor Teacher—a teacher who supports aspiring teachers participating in undergraduate and post-baccalaureate residencies or experienced teachers. Mentor teachers use a cycle of coaching focused on instructional decisions that meet the needs of all students. Mentors may co-teach with yearlong residents or may support teachers without co-teaching. Mentors may also support new teachers or developing teachers in need of coaching, including teachers with an intensive assistance plan, in accordance with LAC 28:CXLVII (Bulletin 130).

Mentor Teacher Ancillary Certificate—a type of certificate that authorizes an individual to serve as a mentor for undergraduate or post-baccalaureate teacher residents.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), (11), and (15), 17:7(6), 17:10, 17:22(6), 17:391.1-391.10, and 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:1833 (October 2006), amended LR 37:560 (February 2011), LR 43:1314 (July 2017), LR 45:233 (February 2019).

Part CXXXVII. Bulletin 125—Standards for Educational Leaders in Louisiana

Chapter 3. Professional Standards

§301. Professional Standards for Educational Leaders

A. The state Department of Education has adopted the National Policy Board for Educational Administration's Professional Standards for Educational Leaders (PSEL), 2015 edition, as standards for educational leaders, which aligns to the Louisiana state standards for educational leaders as defined by performance expectations 1-6 outlined in this Chapter.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 33:1335 (July 2007), repromulgated LR 37:861 (March 2011), amended LR 45:233 (February 2019).

Part CXLVII. Bulletin 130—Regulations for the Evaluation and Assessment of School Personnel

Chapter 1. Overview

§101. Guidelines of the Program

A. In accordance with R.S. 17:391.2 et seq., and this Part, each LEA must develop a uniform system for the

annual evaluation of certified and other professional personnel.

B. The guidelines approved by BESE to strengthen local teacher evaluation programs include the components of effective teaching in §901 of this Part and the Performance Expectations and Indicators for Educational Leaders, 2008 edition.

C. The requirements referred to in Subsection B of this Section will form the basis for the local evaluation programs.

D. - E. Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), 17:10.1, 17:391.10, 17:3881-3886, 17:3901-3904, and 17:3997.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 36:2250 (October 2010), amended LR 38:1214 (May 2012), LR 45:233 (February 2019).

Chapter 3. Personnel Evaluation

§307. Observation Tools

A. LEAs must utilize an observation tool to conduct a qualitative assessment of teacher, content leader, mentor teacher, and administrator performance that is not based on measurements of growth in student learning and will represent 50 percent of all evaluations.

B. - B.2. ...

3. Observation tools for content leader and mentor teacher evaluation shall align to the components of effective teaching in §901 of this Part and the Performance Expectations and Indicators for Educational Leaders, 2008 edition, as well as the competencies for content leaders or mentor teachers in LAC 28:CXXXI.350 and 351.

C. - D.5. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), 17:10.1, 17:391.10, 17:3881-3886, 17:3901-3904, and 17:3997.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 38:1216 (May 2012), amended LR 38:2360 (September 2012), LR 45:233 (February 2019).

§311. Evaluators

A. - B. ...

1. Other designees, such as instructional coaches, content leaders, master teachers, and mentor teachers may conduct observations to help inform the evaluator assessment of teacher performance. These designees shall be recorded as additional observers within the accountability relationships register.

C. - D.3. ...

AUTHORITY NOTE: Promulgated in accordance with 17:6(A)(10), 17:10.1, 17:391.10, 17:3881-3886, 17:3901-3904, and 17:3997.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 38:1217 (May 2012), amended LR 38:2360 (September 2012), LR 45:233 (February 2019).

§325. Extenuating Circumstances

A. - C. ...

D. In the event that a yearlong resident has substantially negatively impacted student learning in the mentor teacher classroom, the district superintendent or CEO may submit a written request to the state superintendent for invalidation of student achievement growth data with relation to the value-added assessment model, in accordance with processes and timelines set forth by the LDE.

E. In cases where value-added data is invalidated, the principal or designee will have the discretion to determine the evaluation rating, based on the evidence available from students learning targets and observations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), 17:391.10, 17:3881-3886, 17:3901-3904, 17:3997, and 17:10.1.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 38:1220 (May 2012), amended LR 38:2361 (September 2012), LR 39:1274 (May 2013), LR 40:761 (April 2014), LR 45:233 (February 2019).

Shan N. Davis
Executive Director

1902#048

RULE

Board of Elementary and Secondary Education

Teaching Authorizations (LAC 28:CXXXI.906)

Editor's Note: Section 906 is being repromulgated to correct a manifest error typographical error. The original Rule may be viewed in its entirety on pages 2132-2137 of the December 20, 2018 edition of the *Louisiana Register*.

In accordance with R.S. 17:6 and 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education has amended *Bulletin 741 (Nonpublic)—Louisiana Handbook for Nonpublic School Administrators*; *Bulletin 741—Louisiana Handbook for School Administrators*; *Bulletin 746—Louisiana Standards for State Certification of Personnel*; *Bulletin 126—Charter Schools*; and *Bulletin 745—Louisiana Teaching Authorizations of School Personnel*. The revisions align state policy with Act 634 of the 2018 Regular Legislative Session. This Rule is hereby adopted on the day of promulgation.

Title 28

EDUCATION

Part CXXXI. Bulletin 746—Louisiana Standards for State Certification of School Personnel

Chapter 9. Actions Related to the Suspension/Denial and Revocation of Louisiana Certificates

§906. Issuance of a Denied Certificate

A. Issuance will never be considered for teachers who have been convicted of a felony for the following crimes:

1. R.S. 14:283, 14:30, 14:30.1, 14:31, 14:32.6, 14:32.7, 14:32.8, 14:41, 14:42, 14:42.1, 14:43, 14:43.1, 14:43.1.1, 14:43.2, 14:43.3, 14:43.4, 14:43.5, 14:44, 14:44.1, 14:45, 14:46.2, 14:46.3, 14:46.4, 14:78, 14:78.1, 14:80, 14:80.1, 14:81, 14:81.1, 14:81.2, 14:81.3, 14:81.4, 14:82, 14:82.1, 14:84, 14:86, 14:89, 14:89.1, 14:92, 14:93, 14:93.3, 14:93.5, 14:106, 14:283, and 14:286.

B. Issuance of certificates shall not be considered until at least five years have elapsed from the date of entry of final conviction or submission of fraudulent documentation, or the date of investigation results regarding the participation in cheating or professional license/certificate censure as noted in §905.B of this Chapter, which resulted in certification denial.

C. - E.7. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), (11), and (15), 17:7(6), 17:10, 17:22(6), 17:391.1-391.10, and 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 36:1999 (September 2010), amended LR 38:763 (March 2012), LR 44:266 (February 2018), LR 44:2133 (December 2018), repromulgated LR 45:234 (February 2019).

Shan N. Davis
Executive Director

1902#043

RULE

Department of Environmental Quality Office of the Secretary Legal Affairs and Criminal Investigations Division

Closure Requirements for Surface Impoundments
(LAC 33:VII.115 and 713)(SW064)

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary has amended the Solid Waste regulations, LAC 33:VII.115 and 713.E (SW064).

This Rule creates and defines risk-based closure standards for solid waste surface impoundments using the LDEQ Risk Evaluation/Corrective Action Program (RECAP). The definitions and rule changes allow for the closure of solid waste surface impoundments under RECAP equivalent to and in lieu of clean closure. This Rule also amends the definition of clean closure for solid waste surface impoundments.

The basis and rationale for this Rule are pursuant to two rulemaking petitions from stakeholders. The current regulations only allow facilities to clean close impoundments or close with waste in place. This revision to the regulations allows facilities to close surface impoundments utilizing risk-based closure standards in accordance with RECAP.

This Rule meets an exception listed in R.S. 30:2019(D)(2) and R.S. 49:953(G)(3); therefore, no report regarding environmental/health benefits and social/economic costs is required. This Rule is hereby adopted on the day of promulgation.

Title 33

ENVIRONMENTAL QUALITY

Part VII. Solid Waste

Subpart 1. Solid Waste Regulations

Chapter 1. General Provisions and Definitions

§115. Definitions

A. For all purposes of these rules and regulations, the terms defined in this Section shall have the following meanings, unless the context of use clearly indicates otherwise.

Clean Closure—the act of closing a solid waste unit or facility whereby all solid waste is removed, and the constituent of concern concentrations in soil and groundwater meet background conditions.

Risk-Based Closure—the act of closing a surface impoundment whereby solid waste is removed and managed as approved by the department, and the concentrations of the

constituents of concern in soil and groundwater comply with LAC 33:I.Chapter 13 (RECAP).

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq. and in particular R.S. 30:2154.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 19:187 (February 1993), amended LR 22:279 (April 1996), amended by the Office of Waste Services, Solid Waste Division, LR 23:1145 (September 1997), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2514, 2609 (November 2000), amended by the Office of Environmental Assessment, LR 31:1576 (July 2005), amended by the Office of the Secretary, Legal Affairs Division, LR 33:1019 (June 2007), LR 34:1023 (June 2008), LR 34:1399 (July 2008), LR 37:1563 (June 2011), LR 37:3233 (November 2011), LR 38:46 (January 2012), amended by the Office of the Secretary, Legal Affairs and Criminal Investigations Division, LR 45:234 (February 2019).

Chapter 7. Solid Waste Standards

Subchapter A. Landfills, Surface Impoundments, Landfarms

§713. Standards Governing Surface Impoundments (Type I and II)

A. - E.1.a. ...

- b. an updated closure plan, if applicable; and
- c. ...

2. Preclosure Requirements. The following standards apply to preclosure requirements for any surface impoundments seeking closure.

a. ...

b. The runoff-diversion system shall be maintained and modified to prevent overflow from the facility to off-site areas.

3. Closure Requirements. Surface impoundments may be closed pursuant to a clean-closure, risk-based closure, or closure with waste in place.

a. For all closures, surface liquids and sludges containing free liquids shall be dewatered or removed from the surface impoundment.

b. For a clean closure or risk-based closure, the closure plan shall reflect a method for determining that all waste has been removed and such a plan shall, at a minimum, include the following:

i. identification (waste analysis of total constituent concentrations; not toxicity characteristic leaching procedure (TCLP)) of the wastes that have been disposed of or managed in the surface impoundment;

ii. identification of the constituents of concern that are intrinsic to the wastes that have been disposed of or managed in the surface impoundment. Justification of the constituents of concern shall be provided in the closure plan;

iii. collection of soil and groundwater samples to:

(a). establish site-specific background levels for the constituents of concern and to document that post-excavation constituent of concern concentrations in groundwater and the bottom and side wall soils of the impoundment are consistent with background levels; or

(b). documentation that the post-excavation constituent of concern concentrations in groundwater and the bottom and side wall soils of the impoundment are less than or equal to the applicable RECAP standards in accordance with LAC 33:I.Chapter 13.

iv. documentation regarding the sampling and testing methods (i.e., including a plan view of the facility, a diagram of sampling locations, and sampling quality-assurance/quality control programs) shall be provided and the Office of Environmental Services shall be notified at least five days prior to any sampling event;

v. analyses to be sent to the Office of Environmental Services confirming that clean closure or risk-based closure has been achieved;

vi. identification of the facility to be used for the disposal of the excavated waste; and

vii. a statement from the permit holder indicating that, after the closure requirements have been met, the permit holder will file a request for a closure inspection with the Office of Environmental Services before backfilling takes place. The administrative authority shall determine whether the facility has been closed properly.

c. Except as otherwise provided in Clause E.3.b of this Section, when determining what site investigation is required for clean closure or risk-based closure, the department shall consider existing data on the site and the surface impoundment in the department's electronic document management system and shall not require duplication or redevelopment of that data.

d. If concentrations of constituents of concern in soil and groundwater at the time of closure meet background or comply with LAC 33:I.Chapter 13, the requirements of Subsection F of this Section shall not apply.

i. For surface impoundments that achieve risk-based closure for industrial/commercial land use and/or groundwater meeting the definition of Groundwater Classification 2 [where constituent concentrations in groundwater exceed the GW₂ RECAP standard (without the application of a dilution and attenuation factor) within the property boundaries], the permit holder shall comply with the conveyance notification requirements of LAC 33:I.Chapter 13 within 90 days after the surface impoundment is closed. The conveyance notice shall be approved by the department prior to filing the notice in the records of the parish in which the property is located. Upon submittal of the conveyance notification and filing with the parish, the department will approve closure of the impoundment.

e. If solid waste remains at the facility, a final cover shall be required that meets the following standards.

i. Final cover shall be a minimum of 24 inches of recompacted clay with a permeability of less than 1×10^{-7} cm/sec overlain with an approved geomembrane covering the entire area. Areas that are steeper than 4:1 slope do not require geomembrane overlay. Final slopes shall not be less than four percent nor greater than 3(H):1(V). Alternative final slopes may be approved by the administrative authority.

ii. The Office of Environmental Services shall be notified after the final cover is applied.

iii. A minimum of 6 inches of topsoil shall be placed on top of the soil cover to support vegetative growth to prevent erosion.

iv. Other covers that satisfy the purposes of minimizing infiltration of precipitation, fire hazards, odors, vector food and harborage, as well as discouraging scavenging and limiting erosion, may be submitted for consideration and approval by administrative authority.

v. Alternate final cover used in accordance with Clause E.3. e.iv of this Section must provide performance equivalent to or better than the final cover requirements in Clauses E.3. e.i and iii of this Section.

vi. The finished grade shall be sufficiently sloped for proper maintenance and drainage.

vii. All facilities with a potential for gas production or migration shall provide a gas collection/treatment or removal system.

f. After a closure inspection and approval, the permit holder shall plant a ground cover to prevent erosion and to return the facility location to a more natural appearance.

g. Surface impoundments shall be closed in a manner that minimizes the need for further maintenance and minimizes the post-closure release of leachate to groundwaters or surface waters to the extent necessary to protect human health and the environment. Quality-assurance/quality-control procedures shall be developed and implemented to ensure that the final cover is designed, constructed, and installed properly.

4. Upon determination by the administrative authority that a facility has completed closure in accordance with an approved plan, the administrative authority shall release the closure fund to the permit holder. The permit holder shall submit a request for the release of this fund to the Office of Management and Finance.

F. Facility Post-Closure Requirements

1. The following standards regarding post-closure requirements apply to surface impoundments closed with waste in place or surface impoundments that did not achieve clean closure or risk-based closure.

a. Post-Closure Care Length

i. Facilities that receive solid waste on or after October 9, 1993, must remain in post-closure care for 30 years after closure of the facility.

ii. Existing facilities that do not receive waste on or after October 9, 1993, must remain in post-closure care for three years after closure of the facility.

iii. However, if the facility received waste on or after October 9, 1991, the final cover must be maintained as specified in Subparagraph F.2.b of this Section for 30 years after closure.

b. The post-closure care, except as otherwise specified above, must consist of at least the following:

i. maintaining the integrity and effectiveness of the final cover (including making repairs to the cover as necessary to correct the effects of settling, subsidence, erosion, or other events), preventing run-on and runoff from eroding or otherwise damaging the final cover; and providing annual reports to the Office of Environmental Services on the integrity of the final cap;

ii. maintaining and operating, if applicable, the leak-detection system;

iii. maintaining and operating the gas collection/treatment or removal system and the gas-monitoring system; and

iv. maintaining the groundwater-monitoring system and monitoring the groundwater in accordance with LAC 33:VII.805.

2. The post-closure period begins when the Office of Environmental Services approves closure. The length of the post-closure care period for surface impoundments may be:

a. increased by the administrative authority if the administrative authority determines that the lengthened period is necessary to protect human health and the environment in accordance with LAC 33:I.Chapter 13; or

b. decreased by the administrative authority if the permit holder demonstrates that the reduced period is sufficient to protect human health and the environment in accordance with LAC 33:I.Chapter 13 and this demonstration is approved by the administrative authority (Any demonstration must provide supporting data, including adequate groundwater monitoring data.)

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 19:187 (February 1993), repromulgated LR 19:1316 (October 1993), amended by the Office of the Secretary, LR 24:2251 (December 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2524 (November 2000), repromulgated LR 27:704 (May 2001), amended LR 30:1676 (August 2004), amended by the Office of Environmental Assessment, LR 30:2025 (September 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2493 (October 2005), LR 33:1053 (June 2007), LR 33:2146 (October 2007), LR 36:1241 (June 2010), LR 37:1564 (June 2011), LR 37:3250 (November 2011), repromulgated LR 37:3511 (December 2011), amended by the Office of the Secretary, Legal Affairs and Criminal Investigations Division, LR 45:235 (February 2019).

Herman Robinson
General Counsel

1902#052

RULE

Office of the Governor Boxing and Wrestling Commission

Boxing and Wrestling Standards
(LAC 46:XI.Chapters 1 and 3)

The Louisiana State Boxing and Wrestling Commission does hereby exercise the provisions of the Administrative Procedure Act, R.S. 49:953(b) and 49:967(D) to amend the following Rules. This Rule is necessary to promote the safety of contestants, other participants and spectators by updating medical and safety requirements, modernize language and reorganize the text for clarity and to introduce new definitions and sections to signify current national and international standards of modern ring sports.

The commission will move the following rules, with amendments, to Chapter 1. General Rules: §305. Contestant, §311. Officials Weighing In, §313. Contestants Apparel and Physical Appearance, §319. Permissible Items in Corner, §323. Bell or Gong, §325. Physicians, §327. Timekeeper, §341. Seconds and §347. Presence in Dressing Room.

The commission also repeals the following rules as obsolete, redundant or incorporated into existing or new

rules: §103. Insulting or Abusive Remarks, §301. Commission Demands, §309. Recommended Weight Differences, §331. Announcer, §333. Manager, §335. Compensation of Officials and §345. Termination of Bouts. This Rule is hereby adopted on the day of promulgation.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part XI. Boxing and Wrestling

Chapter 1. General Rules

§101. Definitions

A. The following words and phrases when used in this Subpart shall have the meanings given to them in this Section unless the context clearly indicates otherwise.

B. No definition contained in this section shall be interpreted or construed or applied in a manner which is inconsistent with the definitions contained under R.S. 4:85.

Amateur—any of the following:

a. contests or exhibitions of armed or unarmed combat or any combination thereof conducted by or participated in exclusively by any state-accredited middle school or high school, college, or university, or by any association or organization of a school, college, or university, when each participant in the contests or exhibitions is a bona fide student in the state-accredited middle school or high school, college, or university;

b. any boxing contest or exhibition if it is registered and sanctioned by United States Amateur Boxing, Inc., or Golden Gloves of America as an amateur boxing contest or exhibition;

c. any contest or exhibition which specifically has been named by the commission as an amateur event.

Boxing—the act of attack and defense with the fists, practiced as a sport.

Commission—the Boxing and Wrestling Commission for the state of Louisiana, as well as the commissioner in attendance at the event, an individual commissioner, deputy commissioner or Commission personnel where applicable.

Commissioner in Attendance—this shall be the Commissioner, Deputy Commissioner or event coordinator who is in attendance at the event and who is primarily responsible not only for the supervision of the event, but the enforcement of the rules set forth herein as well as any statutory regulations.

Contest—a boxing or mixed technique event in which contestants strive earnestly in good faith to win.

Contestant—any participant in all sports under the jurisdiction of this commission including but not limited to boxing, wrestling, and mixed technique event.

Exhibition—as applied to boxing and MTE events, any event in which the participants show or display their skills without necessarily striving to win. As applied to professional wrestling events, bouts for entertainment purposes wherein there are no dangerous blows intended to be struck and the result of each bout is predetermined. As applied to mixed technique events, see §737 in Chapter 7, Mixed Technique Events herein.

Manager—a person who, directly or indirectly, controls or administers the affairs of any boxer, wrestler or MTE contestant.

Mixed Technique Event – contests in which contestants attack and defend with wrestling or grappling and with the fists and other parts of the human body including, but not limited to, the foot, knee, leg, elbow, or head, wherein dangerous blows are intended to be struck with full contact.

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 commission; such person shall have in their possession a permanent license in the State of Louisiana, or a person licensed in another State, who is recognized by the commission.

Professional—Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:64.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Boxing and Wrestling Commission, LR 22:697 (August 1996), amended by the Office of the Governor, Boxing and Wrestling Commission, LR 31:2003 (August 2005), LR 32:242 (February 2006), LR 45:237 (February 2019).

§102. Annual License Fees

Repealed.

AUTHORITY NOTE: Adopted in accordance with R.S. 4:65(B).

HISTORICAL NOTE: Adopted by the Department of Commerce, Boxing and Wrestling Commission 1967, amended 1974, amended by the Department of Economic Development, Boxing and Wrestling Commission, LR 22:697 (August 1996), amended by the Office of the Governor, Boxing and Wrestling Commission, LR 31:2003 (August 2005), amended by the Department of Economic Development, Boxing and Wrestling Commission, LR 35:53 (January 2009), repealed LR 45:236 (February 2019).

§103. Annual License Fees

[Formerly §102]

A. The following is a scale of fees for licensees.

1. Wrestling and Mixed Technique Event Promoters—\$250
2. Boxing Promoters—\$500
3. Matchmakers—\$250
4. Referees—\$25
5. Managers—\$25
6. Announcers—\$25
7. Professional Boxing Contestants in Main Bouts—\$25
8. Seconds—\$25
9. Professional Wrestling Contestants—\$25
10. Other licenses \$2511. Mixed Technique Exhibition Event Contestant—\$0

B. Each license or renewal thereof shall be in effect for a license year from January 1 of the year issued and expiring on the 31st day of December in the year of issuance.

AUTHORITY NOTE: Adopted in accordance with R.S. 4:65(B).

HISTORICAL NOTE: Adopted by the Department of Commerce, Boxing and Wrestling Commission 1967, amended 1974, amended by the Department of Economic Development, Boxing and Wrestling Commission, LR 22:697 (August 1996), amended by the Office of the Governor, Boxing and Wrestling Commission, LR 31:2003 (August 2005), amended by the Department of Economic Development, Boxing and Wrestling Commission, LR 35:53 (January 2009), LR 45:237 (February 2019).

§107. Use of Drugs

A. No participant before entering a contest or exhibition, shall have taken or had administered to him any drug, narcotic, alcohol, stimulant, depressant, diuretic, IV fluids, androgenic steroids or analgesic of any description. See complete list of prohibited drugs in The World Anti-Doping Code's Prohibited List, a copy of which can be found on Louisianaboxing.org.

B. The physician in attendance, or the commission may on a case-by-case basis, allow exceptions to Subsection A.

C. Anyone having knowledge of activity described in Subsection A shall immediately report this information to the commission.

AUTHORITY NOTE: Adopted in accordance with R.S. 4:61(D) and R.S. 4:64.

HISTORICAL NOTE: Adopted by the Department of Commerce, Boxing and Wrestling Commission 1967, amended 1974, amended by the Department of Economic Development, Boxing and Wrestling Commission, LR 22:697 (August 1996), LR 45:238 (February 2019).

§109. Concealment of Disability

A. Any contestant, who conceals from a commission physician, commissioner or commission official any known disability shall, at the discretion of the commission, either forfeit his license or be suspended.

AUTHORITY NOTE: Adopted in accordance with R.S. 4:61(D) and R.S. 4:64.

HISTORICAL NOTE: Adopted by the Department of Commerce, Boxing and Wrestling Commission 1967, amended 1974, amended by the Department of Economic Development, Boxing and Wrestling Commission, LR 22:697 (August 1996), LR 45:238 (February 2019).

§111. Event Coordinator

A. The commission may appoint an event coordinator for any event the commission deems necessary at a fee not to exceed \$350 per event to be paid by the promoter of said event.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:61(D), R.S. 4:64 and R.S. 4:79.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Boxing and Wrestling Commission, LR 36:757 (April 2010), amended LR 45:238 (February 2019).

§113. Financial Reports

A. The financial report of boxing, wrestling and mixed technique event shows and other sanctioned events must include the number of complimentary tickets made available and those actually used, in addition to the other requirements prescribed by law. As per R.S. 4:68, each event promoter shall provide to the commission a gate receipt and tax report form or a certified ticket manifest and taxes due for the event within 24 hours of the event.

AUTHORITY NOTE: Adopted in accordance with R.S. 4:61(D) and R.S. 4:64.

HISTORICAL NOTE: Adopted by the Department of Commerce, Boxing and Wrestling Commission 1967, amended 1974, amended by the Department of Economic Development,

Boxing and Wrestling Commission, LR 22:697 (August 1996), LR 45:238 (February 2019).

§115. Medical Equipment Required

A. There shall be an ambulance no further than 300 feet from the ring and duly licensed EMT's or paramedics with appropriate resuscitation equipment no further than 100 feet away from the ring at all times. EMT's will be paid directly by the promoters/producers of events with fees in accordance with LAC 46:XXXVIII, Professional and Occupational Standards: Emergency Medical Services.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:61.D, R.S. 4:64 and R.S. 4:67.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Boxing and Wrestling Commission, LR 31:2003 (August 2005), amended LR 45:238 (February 2019).

§117. Medical Requirements

[Formerly §108]

A. Each contestant participating in any sport under this commission's jurisdiction must furnish to the commission physician a certified medical certificate evidencing that the contestant has been tested for current 4th generation immuno assay for HIV, Hepatitis B and Hepatitis C and said test results are negative. Said tests and certificates shall be dated not more than six months prior to the scheduled event. Said certificate is to be presented at least five business days prior to any event to the commission with the only exception to be those allowed by the commission on a case by case basis to extend the time period for submission of the test results, or to require the test results be submitted earlier than five day prior.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:61.D, R.S. 4:64, and R.S. 4:67

HISTORICAL NOTE: Promulgated by the Office of the Governor, Boxing and Wrestling Commission, LR 32:242 (February 2006), amended by the Department of Economic Development, Boxing and Wrestling Commission, LR 34:1601 (August 2008), LR 35:53 (January 2009), amended by the Office of the Governor, Boxing and Wrestling Commission, LR 36:756 (April 2010), LR 36:992 (May 2010), repromulgated LR 36:1242 (June 2010), LR 45:238 (February 2019).

§121. Physical Examination of Contestants

[Formerly 325]

A. Each contestant must be examined prior to entering the ring by a commission physician. The physician shall certify in writing over his signature as to the contestant's physical condition to engage in such contest. The physician (and in the case of certain contracts two physicians) shall be in attendance during the contest, prepared to deal with any emergency which may arise. The physician shall file his report of examination with the commission. Blank forms of physician's reports may be obtained from the commission office. All questions must be answered in full.

B. The examination given contestants must be as follows: temperature, pulse (sitting and standing), lungs, heart, blood pressure and urine analysis (when deemed necessary).

C. No contestant shall be allowed to engage in any contest if one or more of the following conditions are found by the commission physician:

1. any hernia, or bubonocele;
2. organic heart murmurs;
3. active pulmonary lesions;
4. temperature over 100.8 degrees;

5. systolic pressure over 150;
6. infectious skin lesions, such as boils or infected wounds;
7. recent wounds, especially on face and ears;
8. hand injuries and fractures less than six weeks old if in the doctor's opinion, the injury would be detrimental to his showing;
9. use of illegal drugs, abuse of prescription medications, alcohol, stimulants, depressants or analgesics of any description except as permitted by §107, Use of Drugs;
10. current 4th generation immuno assay for HIV, Hepatitis B and Hepatitis C positive test results.

D. Female Contestants

1. Medical examinations for female contestants will be the same as for male contestants however, the female contestant is subject to the following provisions:
 - a. the commission may order a pelvic and breast exam by a gynecologist and any evidence of ovarian/uterine/pelvic or breast disease may result in disqualification;
 - b. a pregnancy test shall be obtained the day before or day of the fight and the results submitted to the commission physician before weigh-in; and
 - c. the commission physician may request a buccal smear if there is any doubt regarding the contestant's sex.

2. Rounds for female contestants will be two-minute rounds for boxing, or time limits set for championship bouts, up to three minute rounds for MTE exhibition contestants and up to five minute rounds for professional MTE participants.

AUTHORITY NOTE: Adopted in accordance with R.S. 4:61(D) and R.S. 4:64.

HISTORICAL NOTE: Adopted by the Department of Commerce, Boxing and Wrestling Commission 1967, amended 1974, amended by the Department of Economic Development, Boxing and Wrestling Commission, LR 22:697 (August 1996), amended by the Office of the Governor, Boxing and Wrestling Commission, LR 36:757 (April 2010), LR 45:238 (February 2019).

§123. Ringside Physicians

A. ...

B. The ringside physician may advise the referee to terminate any contest or exhibition at any time if in the opinion of such physician the health or well-being of any participant would be significantly jeopardized by the continuation of the contest or exhibition. In the event of any serious physical injury, such physician shall immediately render any emergency treatment necessary, recommend further treatment or hospitalization if required, and fully report the entire matter to the commission within 24 hours, and thereafter, as required by the commission. Such physician may also require that the injured participant and his or her manager remain in the ring or on the premises or report to a hospital after the contest for such period of time as such physician deems advisable.

C. ...

D. Per R.S. 4:70, the services of the physician shall be secured and paid for by the promoter. It shall be the responsibility of promoter to secure the attendance of the physician at the event and the commission shall approve the physician and appoint him to service the event.

E. Each physician approved by the commission shall execute a contract with the LSBWC.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:61(D), R.S. 4:64 and R.S. 4:70.

HISTORICAL NOTE: Adopted by the Department of Commerce, Boxing and Wrestling Commission 1967, amended 1974, amended by the Department of Economic Development, Boxing and Wrestling Commission, LR 22:697 (August 1996), repromulgated by the Office of the Governor, Boxing and Wrestling Commission, LR 31:2003 (August 2005), amended LR 36:757 (April 2010), LR 45:239 (February 2019).

§125. Health Insurance
[Formerly §108.B]

A. The promoter shall provide insurance and pay all deductibles for contestants to cover medical, surgical, and hospital care with a minimum limit of \$20,000 for injuries sustained while participating in a contest and \$50,000 to a contestant's estate if he dies of injuries suffered while participating in a contest. At least 10 calendar days before an event the promoter shall provide to the commission for each event to be conducted, a certificate of insurance showing proper coverage. The promoter shall supply to those participating in the event the proper information for filing a medical claim. The promoter must keep records proving the proper insurance information was filed with contestant and/or medical facility; if promoter fails to provide proof that contestant and/or medical facility has received the insurance information, promoter will bear the burden of paying all costs associated with medical treatment of injured party.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:61.D, R.S. 4:64, and R.S. 4:67

HISTORICAL NOTE: Promulgated by the Office of the Governor, Boxing and Wrestling Commission, LR 32:242 (February 2006), amended by the Department of Economic Development, Boxing and Wrestling Commission, LR 34:1601 (August 2008), LR 35:53 (January 2009), amended by the Office of the Governor, Boxing and Wrestling Commission, LR 36:756 (April 2010), LR 36:992 (May 2010), repromulgated LR 36:1242 (June 2010), LR 45:239 (February 2019).

§126. Medical Suspensions
[Formerly §108.C]

A. The commission hereby finds that injuries sustained in the ring by contestants are, pursuant to R.S. 49:961.C, a danger to the public health and injured participants are thereby subject to immediate medical suspension as set forth below.

1. A contestant losing by way of a technical knockout (TKO) resulting from head blows may shall receive a medical suspension of a minimum of 30 days; and may not participate in any sparring for a minimum of 30 days. A contestant losing by way of a knock out (KO) shall receive a medical suspension of a minimum of 60 days and may not participate in any sparring for a minimum period of 60 days. At the discretion of the physician, longer suspension periods may be issued for either the TKO or KO.

2. A ringside physician may issue a medical suspension any time he/she believes it to be in the best interest for the safety of a contestant (i.e., high blood pressure at pre-fight physical). In any/all cases, the decision by the physician to issue or extend a suspension is final.

3. The commission may deny a contestant a license if their license to participate or compete has been denied, refused or disciplined for a medical condition by another state, tribal athletic commission, territory, federal agency or country.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:61.D, R.S. 4:64, and R.S. 4:67

HISTORICAL NOTE: Promulgated by the Office of the Governor, Boxing and Wrestling Commission, LR 32:242 (February 2006), amended by the Department of Economic Development, Boxing and Wrestling Commission, LR 34:1601 (August 2008), LR 35:53 (January 2009), amended by the Office of the Governor, Boxing and Wrestling Commission, LR 36:756 (April 2010), LR 36:992 (May 2010), repromulgated LR 36:1242 (June 2010), LR 45:239 (February 2019).

§129. Tickets and Sale of Tickets

A. - B. ...

C. Under no circumstances shall a ticket holder be passed through the gate without having the ticket separated from the stub, or be allowed to occupy a seat unless in possession of the ticket stub.

D. The commission may approve the use of roll tickets. No advance sale of roll tickets shall be permitted. Each roll must be numbered and priced according to the color of the roll. The commission or representative of the commission must be informed of the price of the tickets before they can be sold. The starting ticket number of each roll must be recorded by the commission or the commission representative.

E. Promoters shall provide complimentary tickets or official passes to the commission for seating in the safety zone. If necessary, 30 complimentary tickets or passes will be provided.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:61(D), R.S. 4:64 and R.S. 4:73.

HISTORICAL NOTE: Adopted by the Department of Commerce, Boxing and Wrestling Commission 1967, amended 1974, amended by the Department of Economic Development, Boxing and Wrestling Commission, LR 22:697 (August 1996), repromulgated by the Office of the Governor, Boxing and Wrestling Commission, LR 31:2004 (August 2005), LR 45:240 (February 2019).

§133. Official Weighing In **[Formerly §311]**

A. Contestants shall be weighed within 24 hours of the scheduled match, at a time and place designated by the commission.

B. Each contestant may be weighed in the presence of the public, the other contestant, a representative of the commission and an official representing the promoter, on scales approved by the commission.

C. A contestant must have all weights stripped from his body before he is weighed in, but may wear shorts.

D. This section shall not apply to wrestling events.

AUTHORITY NOTE: Adopted in accordance with R.S. 4:61(D) and R.S. 4:64.

HISTORICAL NOTE: Adopted by the Department of Commerce, Boxing and Wrestling Commission 1967, amended 1974, amended by the Department of Economic Development, Boxing and Wrestling Commission, LR 22:697 (August 1996), LR 45:236 (February 2019).

§135. Permits **[Formerly §117]**

A. Any promoter who wishes to reserve a specific date for a show shall submit the reservation of show date form and the sum of \$250.

B. No date shall be reserved until the \$250 show date fee is received by the Commission.

C. No more than two show dates may be reserved per promoter at one time.

D. The \$250 show date fee is non-refundable and no portion of this fee shall be applied to satisfy any official's fees or tax liability or any other sum owed by the promoter to the Commission.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:61(D) and R.S. 4:64.

HISTORICAL NOTE: Adopted by the Department of Commerce, Boxing and Wrestling Commission 1967, amended 1974, amended by the Department of Economic Development, Boxing and Wrestling Commission, LR 22:697 (August 1996), amended by the Office of the Governor, Boxing and Wrestling Commission, LR 31:2003 (August 2005), LR 45:240 (February 2019).

§137. Event Approval **[Formerly §125]**

A. Before any event will be considered by the Commission, the Promoter must comply with the provisions under §135, Permits herein.

B. Major Event

1. A member of the Louisiana Boxing and Wrestling Commission, including the chairman, may not legally and/or officially authorize and/or give approval to any television network, corporation, limited liability company, promoter, match-maker or any other entity, private or corporate, for any major event date and site selection, without the prior approval of a majority of the commission members voting in favor.

2. *Major Event* in this rule means any boxing, MTE or wrestling (WWE, WWF, etc.) contests that the state of Louisiana authorizes this commission to sanction. Minor local wrestling shows may be excluded from this rule. (Local area commissioners should coordinate these shows through the deputy commissioners and chairman, once they are made aware of such events.)

3. Once a commissioner is contacted by a promoter regarding a major event, he must advise the promoter that a typewritten request on official letterhead must be submitted to the chairman by mail or facsimile. In the request disclosure must be made regarding the venue (television contracts, promoter, matchmaker, number of bouts, bout contracts, arena contracts, sanctioning bodies, ticket information, etc.) After date and site selection is approved, full disclosure of all venue information must be submitted no later than two weeks prior to the event.

C. Once an official request is made, a quorum, according to state statute, must be attained to approve or reject such requests as per state open meeting laws. Emergency meetings will not be deemed necessary, if the time table is such, that the request may be discussed at an upcoming, regular scheduled commission meeting. Requests approved or rejected by quorum in the interim will be noted in the minutes of the next meeting of the commissioners.

D. The commission may demand that all monies relative to any event sanctioned by the commission be placed in escrow in the commission treasury. Monies in this rule means fighters purses and ring officials (referees, timekeepers, inspectors, physicians, judges, etc.) expenses. All ring officials and their pay will be determined by the commission and will be communicated to the promoter. The promoter shall be responsible for and pay all fees of ring officials directly to the commission, and the ring officials will be paid by commission checks the same day or night before the start of the first bout. If the commission required

fighters' purses to be placed in escrow then the fighters also will be paid by commission checks, less any expenses due the commission.

1. Ring officials (judges, referees, etc.) for all ring sports under the jurisdiction of this commission will be appointed and/or approved by the commission.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:61.D and R.S.4:64.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Boxing and Wrestling Commission, LR 31:2004 (August 2005), amended LR 36:757 (April 2010), LR 45:240 (February 2019).

§139. Advertising of Contests

A. No promoter or other individual whether licensed by the commission or not shall advertise an event which has not been approved by the commission.

B. No promoter or other individual whether licensed by the commission or not shall advertise a contestant(s) participation in their show unless and until a signed contract has been executed securing the contestant(s) participation for the date of the event.

C. No promoter, manager or matchmaker or other individual whether licensed by the commission or not shall advertise their affiliation or, legal relationship with or ability to promote a contestant(s) unless and until a signed contract has been executed between that person and the contestant(s) securing the right advertised;

D. No promoter or other individual whether licensed by the commission or not shall advertise using the photo, drawing, video or any other form of likeness of any individual to advertise their show without the express written consent of that individual;

E. Any person advertising an amateur event shall ensure that all advertising concerning the event to be conducted indicates that it is an amateur event, and the word "amateur" must be a large as any other print on the advertisement on a written or printed advertisement and must be announced in any television or radio advertisements and is free from the use of the word "professional"

F. Any person(s) who violates the provisions of this section are subject to immediate and summary denial or cancellation of their show date by the commission, and may be fined or suspended as determined by the commission, and or denial of license.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:61(D), R.S. 4:64 and R.S. 4:70.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Boxing and Wrestling Commission, LR 45:241 (February 2019).

§141. Unauthorized Matchmakers, Promoters, Managers [Formerly §133]

A. Anyone licensed by or under the authority of the commission who utilizes or conducts any business regulated by this commission with unlicensed matchmakers, promoters or managers or anyone under suspension by this commission shall be subject to fines, suspension or the denial of licenses by the commission.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:61(D) and R.S. 4:64.

HISTORICAL NOTE: Adopted by the Department of Commerce, Boxing and Wrestling Commission 1967, amended 1974, amended by the Department of Economic Development, Boxing and Wrestling Commission, LR 22:697 (August 1996), repromulgated by the Office of the Governor, Boxing and

Wrestling Commission, LR 31:2005 (August 2005), LR 45:241 (February 2019).

§143. Safety

[Formerly §135]

A. Licensed clubs shall take all necessary precautions looking toward safety, order and proper behavior.

B. The commission will inspect all cages and rings prior to any events to ensure safety and stability.

C. The commission shall have the right to request from the promoter or the club owner that security personnel be posted at various places designated by the commission in attendance, and, where appropriate may require that that additional security be provided by the promoter or club owner; and

D. The commission is hereby authorized to delay, suspend or terminate any show where the commission in attendance, commissioner or commission representative reasonably believes the continuation of the show presents an immediate danger to the public, to the commission or its personnel or to the participants.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:61(D) and R.S. 4:64.

HISTORICAL NOTE: Adopted by the Department of Commerce, Boxing and Wrestling Commission 1967, amended 1974, amended by the Department of Economic Development, Boxing and Wrestling Commission, LR 22:697 (August 1996), repromulgated by the Office of the Governor, Boxing and Wrestling Commission, LR 31:2005 (August 2005), amended LR 36:757 (April 2010), LR 45:241 (February 2019).

§145. Safety Zone

[Formerly §709]

A. At each event, there shall be an area around the ring or cage extending no less than eight feet as measured from said ring or cage, which shall be partitioned at that distance of eight feet using ropes, fencing, police barriers, bicycle barriers or other emplacements from the public seating and said area shall be referred to as the "safety zone."

1. No one may enter the safety zone unless authorized by the commission.

2. All seating inside of the safety zone shall be authorized only by the commission in attendance; and

3. Anyone entering the safety zone without the authority of the commission may be ejected from the event.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:61(D) and R.S. 4:64.

HISTORICAL NOTE: Promulgated by Department of Economic Development, Boxing and Wrestling Commission, LR 34:1603 (August 2008), LR 45:241 (February 2019).

§147. Interference with the Commission

A. No person attending any event supervised by the commission shall bother, harass, threaten or intimidate the commissioner in attendance or any commissioner or commission personnel.

B. No person attending any event supervised by the commission shall interfere with the commissioner in attendance or any commissioner or commission personnel during the performance of their duties.

C. Any person who violates this provision may at the discretion of the commissioner in attendance or any commissioner or commission personnel be ejected from the event.

D. Any person licensed by the commission who violates this provision may at the discretion of the commission be suspended or fined.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:61(D), R.S. 4:64 and R.S. 4:70.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Boxing and Wrestling Commission LR 45:241 (February 2019).

§149. Contestants Apparel and Physical Appearance
[Formerly §313]

A. Contestants must be in commission approved proper athletic attire, specifically for male fighters, including protection cup, which must be securely strapped to the body. The contestants in professional bouts agree to equip themselves with an abdominal guard of standard type approved by the commission. Female boxing contestants may also wear a breast protector.

B. Each contestant must be clean and present a tidy appearance. The excessive use of grease or any other foreign substance may not be used on the face of a contestant. The referees or commission's representative in charge shall cause any excessive grease or foreign substance to be removed.

C. The commission or representative shall determine whether head or facial hair presents any hazard to the safety of the contestant or his opponent or will interfere with the supervision and conduct of the contest.

AUTHORITY NOTE: Adopted in accordance with R.S. 4:61(D) and R.S. 4:64.

HISTORICAL NOTE: Adopted by the Department of Commerce, Boxing and Wrestling Commission 1967, amended 1974, amended by the Department of Economic Development, Boxing and Wrestling Commission, LR 22:697 (August 1996), LR 45:242 (February 2019).

§151. Contestant Age Limits
[Formerly §305]

A. No person under 18 years of age, excepting at the age of 16 with notarized consent by legal guardian or parent, shall be permitted to participate in any boxing, wrestling or mixed technique event contest sanctioned by this commission.

B. A 16-year-old contestant shall be limited to four round fights.

C. A 17 year old contestant shall be limited to six round fights.

D. No person 40 years of age or over shall be permitted to participate in any boxing, or mixed technique event contest sanctioned by this commission except under the following circumstances:

1. at their costs, complete the medical examinations, procedures or testing as prescribed below:

a. a complete history and physical examination by a qualified physician; and:

b. a dilated eye exam by a qualified ophthalmologist;

c. a complete neurological examination by a qualified neurologist;

d. a magnetic resonance imaging study to include angiographic analysis of the brain;

e. an electrocardiogram; if in any way abnormal, then an exercise stress test and echocardiogram;

f. a chest X-ray;

g. a complete blood count;

h. a comprehensive metabolic panel;

i. a urinalysis;

j. a urine drug screen; and

k. the already required testing for all fighters, i.e. HIV and Hepatitis B and C testing;

2. provide written confirmation from a duly licensed physician that he is in proper physical condition to compete in the contest proposed;

3. at his costs, complete any future testing required by the commission.

AUTHORITY NOTE: Adopted in accordance with R.S. 4:61(D) and R.S. 4:64.

HISTORICAL NOTE: Adopted by the Department of Commerce, Boxing and Wrestling Commission 1967, amended 1974, amended by the Department of Economic Development, Boxing and Wrestling Commission, LR 22:697 (August 1996), LR 45:242 (February 2019).

§153. Contractual Agreements; Enforcement by the Commission

A. Any contestant or manager for a contestant who has entered into a contract with any promoter to participate in a contest who finds that for any reason or cause the contestant will not be able to fully carry out his contract, and does not notify the promoter and the commission of his incapacity and the reason therefor, may be penalized by the commission by a suspension, fine or both.

B. Any promoter who has entered into a contract with any contestant or manager of any contestant to participate in a contest and cancels the proposed match without the knowledge of the contestant, manager and commission, will be subject to a fine in the amount of the purse agreed upon for the match and may be suspended by the commission.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:61(D) and R.S. 4:64.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Boxing and Wrestling Commission, LR 45:242 (February 2019).

§155. Conduct in the Ring

A. Ring girl contests, musical entertainment and other forms of amusement shall be conducted only during the intermission between the undercard and main event. All national anthems are excluded from this regulation. It shall be understood that all activities carried on within the ring before a match begins and after it is over shall be the sole responsibility of the promoter. Additionally, at no time during an event sanctioned by the commission shall there be music played that contains foul or offensive language, racial or ethnic slurs or sexually explicit content.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:61(D) and R.S. 4:64.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Boxing and Wrestling Commission, LR 45:242 (February 2019).

§157. Permissible Items in Contestant's Corner
[Formerly §319]

A. A bucket, plastic water bottle, water, sponge, extra mouthpiece, q-tips, surgical gauze, ice bag, scissors and surgical tape may be available in each contestant corner at all times during the contest or exhibition. The only other material which may be present or used at ringside are vaseline, endswell, topical epinephrine 1:1000, avintine and thromblin. There shall be no Vaseline in MTE corner. The ring physician or commission's representative may at any time inspect the items found in the contestant's corner.

B. A towel is permitted in the corner; however, no one shall throw any towel in the ring as a signal of defeat or for any other reason.

C. There shall be no loose ice the corner.

D. Surgical gloves are required to be worn by corner inspectors and referees.

AUTHORITY NOTE: Adopted in accordance with R.S. 4:61(D) and R.S. 4:64.

HISTORICAL NOTE: Adopted by the Department of Commerce, Boxing and Wrestling Commission 1967, amended 1974, amended by the Department of Economic Development, Boxing and Wrestling Commission, LR 22:697 (August 1996), LR 45:242 (February 2019).

§159. Timekeepers and Corner Inspectors **[Formerly §327]**

A. The timekeeper must be seated outside the ring close to the bell/horn. He shall indicate the beginning and ending of each round by striking the bell/horn. He shall provide himself a whistle and a stop watch, which shall have been properly examined and certified as to accuracy before the bout by a commissioner. Ten seconds before the beginning of each round the timekeeper shall give warnings to the seconds of contestant by blowing of the whistle. The timekeeper shall signal by striking a clapper to indicate when only 10 seconds remain in a round.

B. One corner inspector must be in each corner. Contestant's cornermen present will be approved and appointed by the commissioner in attendance to ensure adherence to rules and regulations, whose authority is recognized, and whose directions will be followed by all contestants and cornermen.

AUTHORITY NOTE: Adopted in accordance with R.S. 4:61(D) and R.S. 4:64.

HISTORICAL NOTE: Adopted by the Department of Commerce, Boxing and Wrestling Commission 1967, amended 1974, amended by the Department of Economic Development, Boxing and Wrestling Commission, LR 22:697 (August 1996), LR 45:243 (February 2019).

§161. Presence in Dressing Rooms **[Formerly §347]**

A. No one shall be allowed in the dressing rooms except manager, seconds, contestants or others authorized by commission representatives.

AUTHORITY NOTE: Adopted in accordance with R.S. 4:61(D) and R.S. 4:64.

HISTORICAL NOTE: Adopted by the Department of Commerce, Boxing and Wrestling Commission 1967, amended 1974, amended by the Department of Economic Development, Boxing and Wrestling Commission, LR 22:697 (August 1996), LR 45:243 (February 2019).

§163. Seconds **[Formerly §341]**

A. Each second must have a current license from the commission before assisting a contestant in the ring. The chief second is responsible for the conduct of all seconds and violations of the commission's rules by any second may be punished by fine, suspensions or both. A manager of a contestant may act as chief second when holding a current license issued by the commission to act as a manager of a contestant.

B. In all boxing bouts not more than three seconds shall attend or assist a contestant, only one second is allowed in the ring. When the timekeeper notifies the referee that the

round will begin in 10 seconds the referee shall order "seconds out." Seconds shall leave the ring promptly and clear it of corner equipment.

AUTHORITY NOTE: Adopted in accordance with R.S. 4:61(D), R.S. 4:64 and R.S. 4:78.

HISTORICAL NOTE: Adopted by the Department of Commerce, Boxing and Wrestling Commission 1967, amended 1974, amended by the Department of Economic Development, Boxing and Wrestling Commission, LR 22:697 (August 1996), LR 45:243 (February 2019).

§165. Bell **[Formerly §323]**

A. The promoter shall be responsible for providing a bell of sufficient size, that when struck by the timekeeper, to be clearly audible by participants, officials, and spectators. The bell shall be approved by the commission.

AUTHORITY NOTE: Adopted in accordance with R.S. 4:61(D) and R.S. 4:64.

HISTORICAL NOTE: Adopted by the Department of Commerce, Boxing and Wrestling Commission 1967, amended 1974, amended by the Department of Economic Development, Boxing and Wrestling Commission, LR 22:697 (August 1996), LR 45:243 (February 2019).

Chapter 3. Professional Boxing

§301. Commission Demands

Repealed.

AUTHORITY NOTE: Adopted in accordance with R.S. 4:61(D) and R.S. 4:64.

HISTORICAL NOTE: Adopted by the Department of Commerce, Boxing and Wrestling Commission 1967, amended 1974, amended by the Department of Economic Development, Boxing and Wrestling Commission, LR 22:697 (August 1996), LR 45:243 (February 2019).

§303. Amateur Boxing Associations

A. ...

B. An amateur boxing contest or exhibition is governed by the rules adopted for amateur boxing contests or exhibitions by United States Amateur Boxing, Inc. The commission hereby adopts by reference those rules as they Amateur Boxing, Inc. A copy of those rules may be purchased from United States Amateur Boxing, Inc., One Olympic Plaza, Colorado Springs, Colorado 80909. If those rules do not cover a particular situation in an amateur boxing contest or exhibition, the provisions of this Chapter concerning unarmed combat and professional boxing contests or exhibitions apply.

C. Despite the two forgoing sections, any person who competes in a boxing match without headgear is declared to be a professional boxer by the commission and will be treated as a professional under these rules and shall be licensed and promoted as a professional under this Chapter and under R.S. 4:61, et seq.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:61(D) and R.S. 4:64.

HISTORICAL NOTE: Promulgated by Department of Economic Development, Boxing and Wrestling Commission, LR 34:1601 (August 2008), LR 45:243 (February 2019).

§305. Limitations on Contestants

A. The commission may require boxers to observe a 7-day rest period after competing in an event. Day one of the rest period shall commence on the first day following the event.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:61(D) and R.S. 4:64.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Boxing and Wrestling Commission, LR 45:243 (February 2019).

§307. Weight Classes, Weight Differences, and Glove Weights

A. No contest may be scheduled and no contestants may engage in a boxing contest without the approval of the commission or the commission's representative if the difference in weight between contestants exceed the allowance shown in the following schedule or if a glove's weight is deemed to be insufficient in any manner. Regardless of the weights set forth below all female fighters shall use 10 oz. gloves, unless the bout is a championship event or the commission approves a different glove weight.

Weight Class	Weight Difference Allowance	Glove Weight
Mini Flyweight (up to and including 108 pounds)	not more than 3 pounds	8 oz.
Flyweight (over 108 to 111 pounds)	not more than 3 pounds	8 oz.
Bantamweights (over 112 to 118pounds)	not more than 3 pounds	8 oz.
Featherweights (over 119 to 126 pounds)	not more than 3 pounds	8 oz.
Jr. Lightweight (over 127 to 130 pounds)	not more than 4 pounds	8 oz.
Lightweight (over 131 to 135 pounds)	not more than 5 pounds	8 oz.
Jr. Welterweight (over 136 to 140 pounds)	not more than 5 pounds	8 oz.
Welterweight (over 141 to 147 pounds)	not more than 7 pounds	8 oz.
Jr. Middleweight (over 148 to 154 pounds)	not more than 7 pounds	10 oz.
Middleweight (over 155 to 160 pounds)	not more than 7 pounds	10 oz.
Super Middleweight (over 161 to 168 pounds)	not more than 7 pounds	10 oz.
Light Heavyweight (over 169 to 175 pounds)	not more than 7 pounds	10 oz.
Cruiserweight (over 176 to 190 pounds)	not more than 12 pounds	10 oz.
Heavyweight (over 190 pounds)	no limit	10 oz.

AUTHORITY NOTE: Adopted in accordance with R.S. 4:61(D) and R.S. 4:64.

HISTORICAL NOTE: Adopted by the Department of Commerce, Boxing and Wrestling Commission 1967, amended 1974, amended by the Department of Economic Development, Boxing and Wrestling Commission, LR 22:697 (August 1996), amended by the Office of the Governor, Boxing and Wrestling Commission, LR 36:757 (April 2010), LR 45:244 (February 2019).

§309. Hand Wraps
[Formerly §313.D]

A. Bandages may not exceed one winding of surgeon's adhesive tape, over 1 1/2 inches wide, placed directly on the hand to protect the part of the hand near the wrists. The tape may cross the back of the hand twice but may not extend within 1 inch of the knuckles when the hand is clenched to make a fist. Each contestant shall use soft surgical bandage not over 2 inches wide held in place by not more than 6 feet of surgeon's adhesive tape for each hand. Up to 15 yards of bandage may be used to complete the wrappings for each hand. Strips of tape may be used between the fingers to hold down the bandages. Bandages must be applied in the dressing room in the presence of a representative of the

commission. Either contestant or his representative may witness the bandaging of his opponent's hands.

AUTHORITY NOTE: Adopted in accordance with R.S. 4:61(D) and R.S. 4:64.

HISTORICAL NOTE: Adopted by the Department of Commerce, Boxing and Wrestling Commission 1967, amended 1974, amended by the Department of Economic Development, Boxing and Wrestling Commission, LR 22:697 (August 1996), LR 45:244 (February 2019).

§311. Judges and Referees
[Formerly §315]

A. Referees

1. The commission is authorized to grant referee licenses to a competent officials upon application and investigation.

2. A licensed referee must be in attendance at every exhibition and shall work in such bouts as directed by the commission. The referee, subject to the approval of the commission, has the power in his discretion to declare forfeited all or any part of the purse of any contestant who, in the referee's judgment, is not contesting in good faith.

3. Before starting each bout the referee shall ascertain the name of the chief second in each corner and shall hold the chief second responsible for all conduct in the corner.

4. No licensed referee or other club official shall act as a promoter for an organization or as a manager for any contestant. The referee or referees are to be appointed by the commission and the commission must approve their compensation in advance. The referee is charged with the enforcement of all rules and regulations of the commission which apply to the execution of performance and the conduct of boxers in the ring.

5. Before the start of each bout the referee shall call the contestants together for final instructions, at which time each contestant shall be accompanied by his chief second only, except in the case of a boxer who also requires the services of an interpreter. After receiving the referee's instructions, the boxers shall shake hands and return to their corners to await the gong for the first round.

B. Judges

1. The commission shall appoint three judges to officiate at each contest or exhibition, except exhibitions conducted solely for training or instruction purposes.

2. Judges shall be stationed at separate sides of the ring as directed by the commission and shall observe carefully and expertly the performance of the contestants in each contest or exhibition to which they are appointed; to appraise each such contest or exhibition fairly and accurately in the light of these rules and the generally recognized rules of boxing; to inscribe the results of such appraisal after each round on the commission scorecard according to the scoring system adopted by the commission; and to deliver said score cards to the referee or to such other official as designated by the commission.

C. The referee is the sole arbiter of a bout and is the only individual authorized to stop a contest.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:61.D. R.S. 4:64 and R.S. 4:79.

HISTORICAL NOTE: Adopted by the Department of Commerce, Boxing and Wrestling Commission 1967, amended 1974, amended by the Department of Economic Development, Boxing and Wrestling Commission, LR 22:697 (August 1996), amended by the Office of the Governor, Boxing and Wrestling

§317. Bout Judging and Procedures

A. Scoring

1. All boxing contests and exhibitions shall be scored by three judges. Judges shall score all contests and determine the winner through the use of 10 point must system. In this system the winner of each round receives 10 points and the opponent a proportionately less number. If the round is even, each boxer receives 10 points. No fraction of points may be given. In each round judges shall score on 4 factors in the following order:

B. Knockdown

1. A contestant shall be deemed "down" when:

- a. clean hits;
- b. effective aggressiveness;
- c. defense;
- d. ring generalship.

2. In the event a boxer has been knocked down, the referee shall order the boxer's opponent to the farthest neutral corner, and the opponent shall remain there. Should the opponent refuse to do so, or leave the farthest neutral corner, the referee may stop counting. Upon compliance by the opponent, however, the referee shall continue counting where he left off.

3. After having been knocked down, the fighter must get up unassisted within 10 seconds. The referee shall count off the seconds. If the contestant attempts to get up, and goes back down, the count shall be continued by the referee where he left off. If the contestant fails to get to his feet by the count of 10 the referee shall declare a knockout and the contest will end. In every round including the last round of a bout, should a boxer be down at the time the bell rings ending the round, the count shall continue until the boxer gets up or is counted out.

C. Boxer out of the Ring

1. If a contestant, who has fallen out of the ring during a contest, fails to return immediately, the referee shall count him out as if he were "down" allowing 20 seconds.

2. Should a contestant leave the ring during the one-minute period between rounds, and fail to be in the ring when gong rings to resume boxing, the referee shall declare his opponent the winner.

D. Answering the Bell

1. Should a contestant finish any one round of a contest and fail to answer the bell for the succeeding round for any one of numerous reasons, such as cuts, injuries or admission of overwhelming superiority, the proper termination of the bout is by a technical knockout in the round for which he fails to answer the bell. For instance, both contestants have finished Round 6. One of them fails to answer the bell for Round 7, or indicates to the referee that he will not answer the bell. It is a "TKO-7."

E. There is no standing eight count.

F. There is no three knockdown rule.

G. When a boxer loses his mouthpiece, the referee shall call time as soon as possible and instruct such boxer's seconds to promptly wash or replace such boxer's mouthpiece and re-install same. If a referee determines that a boxer has deliberately spit out his mouthpiece for any reason, the referee shall issue a warning for the first such

infraction and instruct the judges at the end of the round following a second such infraction to deduct one point from their scores for such boxer for that round. A boxer may be disqualified for deliberately spitting out his mouthpiece for the third time in any one round and his opponent declared the winner.

H. At the end of each round, each judge shall mark his or her scorecard in ink or indelible pencil with the score of each boxer in such round, and shall deliver the scorecard to the referee, who shall in turn deliver the scorecard of all judges to the commission.

I. At the conclusion of a contest or exhibition, except a contest or exhibition which has been concluded by knockout, technical knockout or disqualification, the commission shall tally the total points awarded to each participant and inform the announcer of the decision of the three judges.

J. The announcer shall announce the decision of the judges from the ring, and in the main events, the announcer shall call out the total points awarded by each judge. The boxer who has more points on the scorecard of the official is the winner on that judge's scorecard. The boxer who has been awarded the decision on at least two of the three judge's scorecard is the winner of the bout. In the event that neither boxer has been awarded the decision on at least two of the three judge's scorecard the decision shall be a draw, majority draw and all other possibilities.

K. If the referee or the commission decides, at any time, that either contestant did not enter into the contest in good faith, or if the commission or referee discovers, at any time, that either or both contestants are not performing their part in good faith, or is guilty of any foul tactic, or of faking, or of violating any rule of the commission, the referee or commission may stop the contest.

L. The chief second may forfeit the contest by stepping up onto the ring apron during any round and signaling the referee. If the chief second steps up on the apron before the round is ended the contest is immediately forfeited.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:61.D, R.S.4:64, R.S. 4:76 and R.S. 4:79.

HISTORICAL NOTE: Adopted by the Department of Commerce, Boxing and Wrestling Commission 1967, amended 1974, amended by the Department of Economic Development, Boxing and Wrestling Commission, LR 22:697 (August 1996), amended by the Office of the Governor, Boxing and Wrestling Commission, LR 31:2005 (August 2005), LR 45:245 (February 2019).

§320. Boxing Ring and Ropes

A. The boxing ring shall not be less than 16 feet nor more than 24 feet square within the ropes. The ring floor must extend at least 18 inches beyond the ropes. The ring floor must be padded with ensolite not less than 1 inch in thickness. Padding must extend beyond the ring ropes and over the edge of the platform, with a top covering of canvas, tightly stretched and laced to the ring platform. Material that tends to gather in lumps or ridges must not be used. The ring platform shall be approximately 4 feet above the floor of the building, and shall be provided with suitable steps for use of contestants. Ring post shall be of metal, not more than 4 inches in diameter, extending from the floor of the building to a height of 58 inches above the ring floor. Corners shall have protective padding extending from the top to the bottom rope.

B. ...

AUTHORITY NOTE: Adopted in accordance with R.S. 4:61(D) and R.S. 4:64. Amended 2018

HISTORICAL NOTE: Adopted by the Department of Commerce, Boxing and Wrestling Commission 1967, amended 1974, amended by the Department of Economic Development, Boxing and Wrestling Commission, LR 22:697 (August 1996), LR 45:245 (February 2019).

§321. Fouls, Deductions of Points Because of a Foul and Accidental Fouling

A. - I.3.b. ...

4. A fighter who is hit with an accidental low blow must continue after a reasonable amount of time but no more than five minutes or he/she will lose the fight.

J. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:61.D and R.S. 4:64.

HISTORICAL NOTE: Adopted by the Department of Commerce, Boxing and Wrestling Commission 1967, amended 1974, amended by the Department of Economic Development, Boxing and Wrestling Commission, LR 22:697 (August 1996), amended by the Office of the Governor, Boxing and Wrestling Commission, LR 31:2006 (August 2005), LR 36:758 (April 2010), LR 45:246 (February 2019).

§322. Gloves

A. - B. ...

C. Gloves for preliminary events shall be of the same brand and style. If gloves used in preliminary bouts have been used before, they shall be whole, clean, in sanitary condition and subject to inspection by the referee or commission representative as to condition. Any such gloves found to be unfit shall be immediately discarded and replaced with gloves meeting the above requirements.

D. ...

E. Repealed.

AUTHORITY NOTE: Adopted in accordance with R.S. 4:61(D) and R.S. 4:64.

HISTORICAL NOTE: Adopted by the Department of Commerce, Boxing and Wrestling Commission 1967, amended 1974, amended by the Department of Economic Development, Boxing and Wrestling Commission, LR 22:697 (August 1996), LR 45:246 (February 2019).

§325. Promoters and Matchmakers
[Formerly §329]

A. Each promoter at the time of promoting any contest or exhibition must have a current license issued by the commission. Before acting upon any application for a license, the commission may in its discretion examine under oath the applicant and other witnesses.

B. At the time of submitting a match for approval, promoters of professional boxing contest or exhibition shall submit to the commission a fight card consisting of 28 rounds of three minutes each, but not less than six contests (exclusive of female boxers which are two-minute rounds) plus the national record keeping authorities approved by the commission of the proposed boxers in said match, including the last six. Matches will not be considered unless this is done. This rule applies specifically to visiting boxers who have not previously performed in Louisiana.

C. No person connected with the promotion of professional boxing may have anything to do with the management of boxers; and no persons involved in

professional boxing as managers, boxers, trainers or seconds, shall have anything to do with the promotion of such bouts. A licensed promoter may not act as a matchmaker. A professional contest or exhibition may not be arranged on behalf of any promoter except by a licensed matchmaker.

AUTHORITY NOTE: Adopted in accordance with R.S. 4:61(D) and R.S. 4:64.

HISTORICAL NOTE: Adopted by the Department of Commerce, Boxing and Wrestling Commission 1967, amended 1974, amended by the Department of Economic Development, Boxing and Wrestling Commission, LR 22:697 (August 1996), LR 45:246 (February 2019).

§327. Withholding

[Formerly §339]

A. If a match is stopped by the commission, or its representative in charge, for infraction of the rules or for a violation of any law or ordinance, the promoter shall hold all box office receipts and remuneration for contestants for said match pending the decision of the commission.

B. The commission may cause the promoter to hold the purse of any contestant who, through violation of the rules and regulations of this Chapter; and/or Title 4:61 et seq., affected or attempted to affect the outcome of any contest.

AUTHORITY NOTE: Adopted in accordance with R.S. 4:61(D) and R.S. 4:64.

HISTORICAL NOTE: Adopted by the Department of Commerce, Boxing and Wrestling Commission 1967, amended 1974, amended by the Department of Economic Development, Boxing and Wrestling Commission, LR 22:697 (August 1996), LR 45:246 (February 2019).

§331. Announcer

Repealed.

AUTHORITY NOTE: Adopted in accordance with R.S. 4:61(D) and R.S. 4:64.

HISTORICAL NOTE: Adopted by the Department of Commerce, Boxing and Wrestling Commission 1967, amended 1974, amended by the Department of Economic Development, Boxing and Wrestling Commission, LR 22:697 (August 1996), LR 45:246 (February 2019).

§333. Manager

Repealed.

AUTHORITY NOTE: Adopted in accordance with R.S. 4:61(D) and R.S. 4:64.

HISTORICAL NOTE: Adopted by the Department of Commerce, Boxing and Wrestling Commission 1967, amended 1974, amended by the Department of Economic Development, Boxing and Wrestling Commission, LR 22:697 (August 1996), LR 45:246 (February 2019).

§335. Compensation of Officials

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:61.D, R.S. 4:64 and R.S. 4:67.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Boxing and Wrestling Commission, LR 31:2007 (August 2005), LR 45:246 (February 2019).

§345. Termination of Bouts

Repealed.

AUTHORITY NOTE: Adopted in accordance with R.S. 4:61(D) and R.S. 4:64.

HISTORICAL NOTE: Adopted by the Department of Commerce, Boxing and Wrestling Commission 1967, amended 1974, amended by the Department of Economic Development,

Anthony "Buddy" Embanato
Chairman

1902#003

RULE

**Office of the Governor
Division of Administration
Racing Commission**

Permitted Medications in Quarter Horses (LAC 35:I.1506)

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and through the authority granted in R.S. 4:148, notice is hereby given that the Racing Commission has adopted LAC 35:I.1506. The Rule prohibits the use of Clenbuterol in any quarter horse racing in Louisiana. This Rule hereby adopted on the day of promulgation.

**Title 35
HORSE RACING**

Part I. General Provisions

Chapter 15. Permitted Medication

§1506. Permitted Medications in Quarter Horses

A. Any racehorse participating in a quarter horse race shall comply with the medication rules set forth herein, specifically LAC 35:I.Chapter 15 and LAC 35:I.Chapter 17, however the following exception(s) shall apply.

1. Clenbuterol is a prohibited substance in quarter horses and other breeds racing with quarter horses. There is no applicable withdrawal guideline for such horses.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:148.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Racing Commission, LR 45:247 (February 2019).

Charles A. Gardiner III
Executive Director

1902#022

RULE

**Office of the Governor
Division of Administration
Racing Commission**

Preference for Eliminated Horses (LAC 35:V.6336)

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and through the authority granted in R.S. 4:148, the Racing Commission has amended LAC 35:V.6336. Previously in an overfilled race, a single entry (where a trainer has one horse entered) had preference over a double entry (where a single trainer has entered two horses with different owners). The Rule amendment has removed this preference and treats single entries and double entries equal in overfilled races. This Rule is hereby adopted on the day of promulgation.

**Title 35
HORSE RACING**

Part V. Racing Procedures

Chapter 63. Entries

§6336. Preference for Eliminated Horses

A. Should two horses which are owned separately, but trained by the same trainer, be entered in any race, causing an excess of the number of horses which may, because of track limitation, be permitted to start, the horses to start shall be determined and selected by lot from all of the horses entered. Those entries which are eliminated shall receive a preference as provided in these rules.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:148.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Racing Commission, LR 13:289 (May 1987), amended by the Department of Economic Development, Racing Commission, LR 14:702 (October 1988), amended by the Office of the Governor, Division of Administration, Racing Commission, LR 45:247 (February 2019).

Charles A. Gardiner III
Executive Director

1902#060

RULE

**Office of the Governor
Office of Financial Institutions**

Interested Party Petitions (LAC 10:XVII.503)

Under the authority of and in accordance with the Louisiana Administrative Procedure Act, R.S. 49:950 et seq., specifically R.S. 49:953(C)(1) and R.S. 49:952(2), along with the commissioner's rulemaking authority, including but not limited to, R.S. 6:101, R.S. 36:4.1(C)(1), and R.S. 36:801.1(B), the commissioner of the Office of Financial Institutions has adopted the following Rule to provide for an interested person to petition the agency for the adoption, amendment, or repeal of a rule. This Rule is hereby adopted on the day of promulgation.

Title 10

**FINANCIAL INSTITUTIONS, CONSUMER CREDIT,
INVESTMENT SECURITIES, AND UCC**

Part XVII. Miscellaneous Provisions

Chapter 5. Procedures

§503. Interested Party Petitions

A. Any interested person may petition the Office of Financial Institutions requesting the adoption, amendment, or repeal of a rule.

B. A petition for adoption, amendment or repeal of a rule shall be plainly and prominently titled and styled as such and shall be manually signed by an individual petitioner, and by any attorney representing the petitioner. The full name, title or office if any, address, telephone number and email address of all signees of the petition shall be printed or typed under the signature. Signees signing in a representative capacity must be clearly identified.

C. A petition filed in accordance with this Section shall contain the following:

1. the name and number of any license or other certification issued by the commissioner to the petitioner and a statement regarding whether the petitioner is subject to the regulatory jurisdiction of the commissioner and if the petitioner is or may be affected by the laws included within the scope of the commissioner's jurisdiction;

2. in the case of a petition for the adoption of a new rule, set forth a concise statement of the nature, purpose, and intended effect of the rule which petitioner requests be adopted, and the citation to the statutory authority for the commissioner's exercise of or rulemaking authority in the manner and on the subject requested;

3. in the case of a petition for amendment of an existing rule, specify by citation to the *Louisiana Administrative Code* the rule or rules which the petitioner requests be amended, together with a concise statement of the manner in which it is proposed that the rule or rules be amended, the purpose and intended effect of the requested amendment, and citation to the statutory authority for the commissioner's exercise of or rulemaking authority in the manner and on the subject requested;

4. in the case of a petition for repeal of an existing rule, specify by citation to the *Louisiana Administrative Code* the rule or rules which the petitioner requests be repealed, together with a concise statement of the purpose and intended effect of such repeal;

5. provide an estimate of the fiscal and economic impact of the requested adoption, amendment, or repeal of the rule on the revenues and expenses of the Office of Financial Institutions and any other state and local governmental units, on the costs/benefits to directly affected persons, and on the competition and employment in the public and private sectors. If the petitioner has insufficient information or is otherwise unable to provide a reasonable estimate of such impact, the petitioner shall include a statement attesting to the lack of such information;

6. an estimate of any impact on family formation, stability, and autonomy as described in R.S. 49:972;

7. an estimate of any impact on poverty as described in R.S. 49:973;

8. an estimate of any impact on small business as described in R.S. 49:965.5;

9. an estimate of any impact on providers as described in HCR 170 of 2014;

10. all pertinent allegations of facts, circumstances, and reasons supporting the action sought by the petitioner;

11. a statement or prayer expressing the action sought by the petition;

12. any other information deemed necessary by the commissioner, in his discretion, in order that he may properly consider the petition.

D. The commissioner may refuse to accept for filing or defer consideration of any petition for adoption, amendment, or repeal, of a rule, which does not conform to the requirements of this section.

E. After submission of a petition pursuant to this section, the Office of Financial Institutions shall either deny the petition in writing stating the reasons for denial, or shall initiate rulemaking proceedings in accordance with the Louisiana Administrative Procedure Act.

F. Nothing herein shall be construed to require that the commissioner, in granting a petition for the adoption,

amendment, or repeal of a rule, adopt or employ the specific form or language requested by the petitioner, provided that the commissioner's action gives effect to the substance and intent of the petition.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:952(2) 49:953(C)(1), R.S. 6:101, R.S. 36:4.1(C)(1), and R.S. 36:801.1(B).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Financial Institutions LR 45:247 (February 2019).

John Ducrest, CPA
Commissioner

1902#009

RULE

Department of Health Board of Nursing

Disciplinary Proceedings (LAC 46:XLVII.3405)

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and through the authority granted in R.S. 37:918, the Louisiana State Board of Nursing (LSBN) has made amendments that add clarifying language to the definitions "revoke" and "suspend" in Chapter 34, Section 3405 of the administrative rules. This change may affect the licensure of Registered Nurses (RNs) and Advanced Practice Registered Nurses (APRNs). Amendments to the definition of "revoke" include language allowing for the reinstatement of a revoked license five years after revocation of a license. The revised definition aligns with recent changes in Chapter 34, §3415 of the administrative rules, which modifies the reinstatement of licenses process for RNs and APRNs. The changes in Chapter 34, §3415 allow for the RN and/or the APRN to submit an application for the consideration of reinstatement by the board if his/her license has been revoked. The rule changes to Chapter 34, §3415 were published in October 2018.

Additionally, the rule changes amend the definition of "suspend" regarding the licensure of RNs and APRNs, implementing a maximum cap on license suspensions of three years. Under the prior definition the LSBN could suspend licenses indefinitely. The revised definition further clarifies the powers of an RN or APRN under license suspension. This Rule is hereby adopted on the day of promulgation.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part XLVII. Nurses: Practical Nurses and Registered Nurses

Subpart 1. Practical Nurses

Chapter 34. Disciplinary Proceedings: Alternative to Disciplinary Proceedings.

§3405 Definition of Terms

A. ...

Revoke—to annul or make void by calling back. A person who is licensed as a registered nurse, an advanced practice registered nurse, or both, and whose license or

licenses are revoked, but not declared “permanently revoked,” loses his/her license(s) to practice registered nursing, advanced practice registered nursing or both is no longer a registered nurses, advanced practice registered nurse, or both, but may apply for reinstatement for five years from the date the board’s revocation order became a final judgement. A person whose license or licenses are revoked permanently or are declared permanently revoked, however, never again shall be allowed to practice registered nursing in Louisiana, and an application for reinstatement shall not be considered.

* * *

Suspend—to hold license to practice as a registered nurse, an advanced practice register nurse, or both, in abeyance for a definite period of time. A suspension shall not exceed a maximum term or time period of three years. A suspended registered nurse or advanced practice registered nurse remains a registered nurse, an advanced practice registered nurse, or both, during the period of suspension and retains a license to practice. But cannot practice, and shall not practice, registered nursing, advanced practice registered nursing, or both, during the term of suspension.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:918(K), R.S. 37:921, and R.S. 37:1744-1747.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Nursing, LR 7:74 (March 1981), amended by the Department of Health and Hospitals, Board of Nursing, LR 19:1145 (September 1993), LR 21:271 (March 1995), LR 24:1293 (July 1998), LR 31:1585 (July 2005), LR 35:1535 (August 2009), LR 36:2278 (October 2010), amended by the Department of Health, Board of Nursing, LR 43:1379 (July 2017), LR 45:248 (February 2019).

Dr. Karen C. Lyon
Executive Director

1902#001

RULE

**Department of Health
Board of Speech-Language Pathology and Audiology**

Speech-Pathology and Audiology
(LAC 46:LXXV.Chapters 1-7)

In accordance with the provisions of the Administrative Procedures Act, R.S. 49:950 et seq., and through the authority granted in R.S. 37:3085, the Board of Speech-Language Pathology and Audiology has amended its current regulations to make technical changes and clarifications, add definitions for telehealth/telepractice, remove hearing aid dispensing fee from renewal and initial applications, and add telehealth registration fees. This Rule is hereby adopted on the day of promulgation.

Title 46

**PROFESSIONAL AND OCCUPATIONAL
STANDARDS**

Part LXXV. Speech Pathology and Audiology

Chapter 1. General Rules

§103. Definitions

A. ...

* * *

Accredited Educational Institution—college or university that holds regional accreditation.

Accredited Educational Program—a graduate program in audiology or speech-language pathology that is accredited by the Council for Academic Accreditation in Audiology and Speech-Language Pathology (CAA) or the Accreditation Commission for Audiology Education (ACAE).

Aides—individuals not licensed by the Louisiana Board of Examiners for Speech-Language Pathology and Audiology (LBESPA) who, after appropriate training, perform tasks that are prescribed, directed, and supervised by audiologists or speech-language pathologists licensed in accordance with R.S. 37:2659(A) or (B). Licensed audiologists and licensed speech-language pathologists are legally, ethically, and morally responsible for the services provided by aides working under their direction.

Assistant Licensee—an individual who meets the qualifications established by R.S. 37:2659(F), and works under the direct supervision of a licensed speech-language pathologist and performs only those duties specified in §119.

* * *

Criminal History Record Information—information collected by state and federal criminal justice agencies consisting of identifiable descriptions and notations of arrests, detentions, indictments, bills of information or any other formal criminal charges, and any disposition arising therefrom, including sentencing, criminal correctional supervision and release.

Direct Patient/Client Contact—practicum experience obtained during performance of a clinical activity with a patient/client.

Direct Supervision—the supervisor observing the licensee engaging in a specified clinical activity with a patient/client in order to obtain knowledge and provide guidance regarding the supervisee’s clinical work. The supervisor shall accomplish this task either by being physically present in the room or through the use of a secure live video, live stream or web cam.

* * *

Facilitator—the individual at the client site who assists with the delivery of telehealth services at the direction of the audiologist or speech-language pathologist.

* * *

Full-time Supervised Professional Employment/Experience—a minimum of thirty-six weeks engaged in the provision of clinical services. Volunteer services are not acceptable.

* * *

Grace Period—the period in which an applicant may be employed while an initial application for licensure is being considered by the board. The grace period cannot exceed 60 days from the date that the application is received by the board.

* * *

Indirect Supervision—the utilization of alternative methods, other than direct supervision, to acquire knowledge of a supervisee’s clinical work, e.g. review of client folders and record keeping, scheduling, and planning.

* * *

Nine Months of Full-Time Supervised Postgraduate Professional Employment/Experience—Repealed.

* * *

Part-Time Postgraduate Professional Employment Experience—part-time experience greater than or equal to an average of 5 hours per week which culminates in an equivalent of 36 weeks of full-time employment experience.

Provisional Assistant Licensee—an individual who meets the qualifications established in R.S. 37: 2659(G) and works under the direct supervision of a licensed speech-language pathologist and performs only those duties specified in §121. This person has completed a minimum of 100 of 225 supervised clinical practicum hours and is working to complete the remaining hours on-the-job and/or through a regionally accredited educational institution or its cooperating programs.

Supervised On-the-Job Training—direct supervision hours which have been obtained during paid employment, and documented on the form provided by the board.

* * *

Telehealth—also known as telepractice, is a mode of delivering audiology and speech-language pathology services that utilizes information and communication technologies to enable the diagnosis, consultation, treatment, education, care management, and self-management of clients at a distance from the audiologist or speech-language pathologist provider. Telehealth allows services to be accessed when providers are in a distant site and patients are in the originating site. Telehealth facilitates self-management and caregiver support for patients and includes synchronous interactions and asynchronous store and forward transfers.

Telehealth Registration—limited to out-of-state residents whose out-of-state audiology or speech-language pathology license does not require supervision, is an unrestricted and unencumbered license in good standing to perform audiology or speech-language pathology in the state in which the provider is located, and the license is comparable to the license in Louisiana as determined by this board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2650 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Examiners for Speech-Language Pathology and Audiology, LR 14:705 (October 1988), amended LR 22:346 (May 1996), LR 27:197 (February 2001), LR 28:1781 (August 2002), LR 30:2307 (October 2004), LR 33:2192 (October 2007), LR 37:2392 (August 2011), amended by the Department of Health, Board of Speech-Language Pathology and Audiology, LR 42:1665 (October 2016), LR 45:249 (February 2019).

§105. Designations

A. - A.2. ...

3. Repealed.

A.4. - B. ...

1. When signing professional documents, Speech-Language Pathology Assistants and Provisional Speech-Language Pathology Assistants shall write their full license title, e.g., B.A., SLP Assistant or B.A., Provisional SLP Assistant. Speech-Language Pathology Assistants and Provisional Speech-Language Pathology Assistants shall always identify themselves as such in professional interactions.

C. Titles and academic credential designations shall represent earned degrees obtained through regionally accredited university programs. To appropriately represent the level of education in the area of practice, when listing an educational designation, the licensee shall list the highest

degree earned in audiology or speech-language pathology. In addition, graduate degrees earned in other disciplines must specify the area in which the degree was earned [e.g., B.S. (Speech-Language Therapy), M.Ed. (Administration)]. When listing credentials, licensees should sequentially list their name, educational designation, license designation, and professional certification, e.g., M.A., L-SLP, CCC-SLP.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2650 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Examiners for Speech-Language Pathology and Audiology, LR 22:346 (May 1996), amended LR 27:197 (February 2001), LR 30:2308 (October 2004), LR 33:2192 (October 2007), amended by the Department of Health, Board of Speech-Language Pathology and Audiology, LR 45:250 (February 2019).

§107. Qualifications for Licensure

A. Coursework Requirements—Audiology License. The applicant shall submit official transcripts from one or more regionally accredited colleges or universities evidencing completion of at least 75 semester credit hours of post-baccalaureate coursework for applicants who began a doctoral program after January 1, 2005.

B. Coursework Requirements—Audiology License. The following coursework requirements apply to applicants who began a master's program after January 1, 1994.

1. - 2.b. ...

* * *

C. Coursework Requirements—Audiology License. The following coursework requirements apply to applicants who began a master's program prior to January 1, 1994.

C.1. - F.2.b. ...

c. A maximum of 6 academic semester credit hours associated with clinical practicum may be counted toward the minimum of 30 semester credit hours of professional coursework, but those hours may not be used to satisfy the minimum of 12 semester credit hours in speech/language disorders, 6 hours in language disorders, or 3 hours in audiology, or the 21 graduate credits in the professional area for which the license is sought.

* * *

G. - H.1.c. ...

2. Audiology License

a. 1820 clinical practicum hours if the graduate program began after January 1, 2005;

b. - c. ...

3. Speech-Language Pathology Assistant License

a. 225 clinical practicum hours are required, the first 100 of which shall have been obtained through a regionally accredited educational institution or its cooperating programs. Of the 100 hours obtained through a regionally accredited educational institution, 75 shall be obtained through direct patient/client contact, and the remaining 25 hours may be obtained through observation of assessment and therapy. It is recommended that the direct patient/client contact hours be obtained in at least two practicum sites with one site being a public school setting. The first 75 hours of direct patient/client contact shall be obtained in the following categories:

i. - ii. ...

iii. the remaining 35 hours may be obtained in the areas of speech, language or hearing disorders. A maximum of 5 of these hours may be in the area of audiology. It is

recommended that a minimum of 20 hours be obtained in articulation.

3.b. - 4.a.i.(b). ...

(c) the remaining 35 hours may be obtained in the areas of speech, language or hearing disorders. A maximum of 5 of these hours may be in the area of audiology. It is recommended that a minimum of 20 hours be obtained in articulation.

b. The additional 125 hours required to upgrade to the Speech-Language Pathology Assistant License shall be obtained within three years of the date of issuance of the provisional assistant license and may be obtained by completing the remaining hours on-the-job and/or through a regionally accredited educational institution or its cooperating programs. Those hours obtained through supervised on-the-job training must consist of direct supervision hours and will only be accepted from the date that the application for license is received by the board.

c. A provisional speech-language pathology assistant may request deferment of the three-year period to complete licensure upgrade requirements. Such deferment may only be requested if there is an extenuating circumstance, such as inability to obtain employment in the area of speech-language pathology. The license must be renewed annually. Such deferment may only be held for a period of three years from the time of board approval.

i. If the licensee has never worked as a provisional speech-language pathology assistant, a notarized statement shall be submitted to the board office annually.

ii. ...

iii. Licensees on inactive status may retain their license by payment of the annual renewal fee. In order to resume practice as a speech-language pathology assistant, licensees on inactive status shall demonstrate completion of 5 clock hours of continuing education in the area of licensure for each year that inactive status was maintained (maximum of 25 hours).

I. Equivalency Requirements—Speech-Language Pathology, Provisional Speech-Language Pathology, or Audiology License

1. Individuals who do not possess a graduate degree in either audiology or speech-language pathology but wish to obtain a license through the equivalency process shall meet the coursework, practicum and examination requirements for the area in which licensure is sought as defined in the board's rules entitled Coursework Requirements: Audiology License Coursework Requirements: Speech-Language Pathology License and Provisional Speech-Language Pathology License; Clinical Practicum Hour Requirements and Examination Requirement.

J. Postgraduate Professional Employment/Experience

1. A graduate-level speech-language pathologist must submit verification of thirty-six weeks of full-time postgraduate professional employment/experience or its full-time equivalent.

2. Repealed.

K. Examination Requirement—Speech-Language Pathology License, Provisional Speech-Language Pathology License, Audiology License

1. The board recognizes only the Educational Testing Service's specialty area examinations for audiology and speech-language pathology as the licensure examination for audiology and/or speech-language pathology. Scores received directly from the applicant are not acceptable for licensing purposes.

2. - 3. ...

4. If an individual has never held a license to practice audiology or speech-language pathology in another state, and if the degree program was completed greater than 10 years from the date of application, the passing score on the specialty area examination for audiology or speech/language pathology must have been obtained within the last 5 years.

L. - L.1.c. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2650 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Examiners for Speech-Language Pathology and Audiology, LR 14:706 (October 1988), amended LR 22:346 (May 1996), LR 27:197 (February 2001), repromulgated LR 27:1690 (October 2001), amended LR 28:1781 (August 2002), LR 30:2308 (October 2004), LR 33:2192 (October 2007), LR 37:2393 (August 2011), LR 39:1042 (April 2013), amended by the Department of Health, Board of Speech-Language Pathology and Audiology, LR 42:1666 (October 2016), LR 45:250 (February 2019).

§109. Licensure Application Procedures

A. An application for a license to practice audiology and/or speech-language pathology shall be made on board-approved forms.

B. Criminal history record information must be submitted with the application form.

C. Official transcripts shall be sent to this board directly from the college or university from which the academic requirements were earned. Documentation of supervised clinical practicum hours shall be submitted on university forms signed by a clinical supervisor or director, and must be submitted along with the application form

D. Documentation of supervised clinical practicum hours shall be submitted on university forms signed by a clinical supervisor or director, and must be submitted along with the application form

E. The initial license fee submitted to this board with the application form and shall be paid by check, money order, or credit card.

F. Audiologists, speech-language pathologists, and/or assistants who have held a license in another state, shall provide official verification of their licensure status in each state, including any formal disciplinary action resulting in sanction and/or disciplinary proceedings which are pending. Verification of licensure status must be submitted along with the application form.

G. Documentation of thirty-six weeks of postgraduate professional employment/experience shall be submitted directly to the board in writing on official agency letterhead.

H. Documentation of thirty-six weeks of postgraduate professional employment/experience, a passing score on the Educational Testing Service's specialty area examination, and verification of supervised clinical practicum hours may be waived for individuals who submit verification that they

hold the Certificate of Clinical Competence from the American Speech-Language-Hearing Association. Documentation must be submitted with the application form.

I. Postgraduate professional employment/experience which counts toward upgrading the license status, will only be accepted from the date that a licensee's application is received by the board.

J. While an initial application for licensure is being considered by the board, the applicant may be employed as an audiologist, speech-language pathologist, or speech-language pathology assistant for a period not to exceed 60 calendar days from the date that their completed application is received by the board. In no event may the applicant be employed as an audiologist, speech-language pathologist, or speech-language pathology assistant after the application has been denied.

K. An applicant, with the exception of military applicants and military spouses, may be granted only one 60-day period to work while his/her initial application is being processed. No additional grace period may be granted to an applicant, regardless of whether the application is a new license or a request to reinstate or upgrade a license.

L. 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 and instructions. 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 for consideration of an application.

M. Applications from individuals who have defaulted on a loan from the Louisiana Office of Financial Assistance as per R.S. 37:2951 will be denied until such time as a release from the Louisiana Office of Financial Assistance has been received noting that a repayment agreement has been established.

N. Applicants who have not obtained licensure within one year of the board's receipt of the application shall be deemed to have abandoned the application, resulting in mandatory reporting to the appropriate federal data bank. An applicant may request a withdrawal of the application subject to review and approval by the board.

O. Individuals holding an unrestricted audiology or speech-language pathology license from another state shall be allowed to practice in Louisiana for five consecutive days within each renewal period upon proof of current licensure submitted to the board office 10 days prior to the scheduled activity.

P. When there is probable cause to believe that an applicant practiced illegally in Louisiana as an audiologist, speech-language pathologist, and/or speech-language pathology assistant, the board may offer a consent agreement and order which will grant the individual a license, subject to the following specified terms and conditions.

1. Within 90 days of the date of the consent agreement and order, the applicant shall take and pass an open book examination regarding R.S. 37:2650-2666, the board's rules and regulations, and ethical questions.

a. Open book test fee shall be \$30. The retest fee shall be \$10 per section.

b. Applicants have 4 1/2 hours to complete all sections of the test.

c. The open book examination or any section may be re-taken anytime within the 90 days.

d. Notice of the consent agreement and order shall be published.

e. If the applicant fails to successfully complete all requirements set forth in the above paragraphs, the applicant's license shall be suspended without further notice until the board receives and accepts documentation of the applicant's completion of the consent agreement and order requirements.

Q. Temporary Registration during a Declared Public Health Emergency

1. In a public health emergency lawfully declared as such by the governor of Louisiana, the requirement for a Louisiana license as an audiologist, speech-language pathologist, or speech-language pathology assistant may be waived by the board at that time to those out-of-state audiologists, speech-language pathologists, or speech-language pathology assistants, whose licenses, certifications or registrations are current and unrestricted in another jurisdiction of the United States, for a period of time not to exceed the duration and scope of R.S. 29:769(E), as more particularly set forth in this Section.

2. The following requirements for temporary registration may be imposed pursuant to the declared state of emergency and shall be in accordance with rules promulgated by the board.

3. An audiologist, speech-language pathologist, or speech-language pathology assistant not licensed in Louisiana, whose licenses, certifications or registrations are current and unrestricted in another jurisdiction of the United States, may gratuitously provide audiology and speech-language pathology services if:

a. the audiologist, speech-language pathologist, or speech-language pathology assistant has photo identification and a license to verify a current and unrestricted license, certification or registration in another jurisdiction of the United States, and properly registers with the board prior to providing audiology or speech-language pathology services in Louisiana as follows:

i. the audiologist, speech-language pathologist, or speech-language pathology assistant is engaged in a legitimate relief effort during the emergency period, and provides satisfactory documentation to the board of the location site(s) that he/she will be providing gratuitous audiology or speech-language pathology services;

ii. the audiologist, speech-language pathologist, or speech-language pathology assistant shall comply with the Louisiana Speech-Language Pathology and Audiology Practice Act, board rules, and other applicable laws, as well as practice in good faith, and within the reasonable scope of his/her skill, training, and ability; and

iii. the audiologist, speech-language pathologist, or speech-language pathology assistant renders services on a gratuitous basis with no revenue of any kind to be derived whatsoever from the provision of services within the state of Louisiana.

4. This temporary registration period shall not exceed 60 days at the discretion of the board, with the potential extension of up to two additional periods not to exceed 60 days for each extension as determined appropriate and necessary by the board.

5. All interested audiologists, speech-language pathologists, and speech-language pathology assistants shall submit a copy of their respective current and unrestricted licenses, certifications or registrations issued in other jurisdictions of the United States and photographic identification, as well as other requested information, to the Louisiana Board of Examiners for Speech-Language Pathology and Audiology for registration with this agency prior to gratuitously providing audiology or speech-language pathology services in Louisiana.

6. Should a qualified audiologist, speech-language pathologist, or speech-language pathology assistant registered with the board fail to comply with any requirement or condition established by this Section, the board may terminate his/her registration upon notice and hearing.

7. In the event an audiologist, speech-language pathologist, or speech-language pathology assistant fails to register with the board, but practices audiology or speech-language pathology, whether gratuitously or otherwise, then such conduct will be considered the unlawful practice of audiology or speech-language pathology and prosecuted accordingly.

R. Volunteer Services. Individuals seeking to provide services on a voluntary basis shall hold an unrestricted out-of-state license in the area of practice, shall be deemed to meet all of the qualifications for license set forth by this Chapter, and shall abide by the Code of Ethics.

S. Licensing Military Members and Military Spouses

1. Expedited application for licensure in the area of audiology or speech-language pathology shall be granted to military members and military spouses licensed, certified or registered in another jurisdiction, while the individual is satisfying the requirement for licensure.

a. Applications shall be submitted in accordance with §109.

b. Military members shall submit with the application a copy of current military-issued identification and military orders.

c. Applicants who are the spouse of military personnel shall submit with the application a copy of current military-issued identification, marriage license, and an affidavit attesting that applicant is married to military personnel.

2. Military applicants shall submit:

a. military members—official, primary-source documentation verifying requirements met in accordance with §107 and §115;

b. military spouse—official, primary-source documentation verifying requirements met in accordance with §107 and §115.

3. Military members and military spouses shall be given a 60-day grace period for submission of official documentation from the date their notarized application and license fee are received by the board office, regardless of lapsed license status. The board may consider an extension

of this grace period as per House Concurrent Resolution 74 of the 2015 Regular Session of the Louisiana Legislature.

4. The provisions of this Section shall not apply to any applicant receiving a dishonorable discharge or a military spouse whose spouse received a dishonorable discharge.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2650 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Examiners for Speech-Language Pathology and Audiology, LR 14:707 (October 1988), amended LR 22:352 (May 1996), LR 27:199 (February 2001), LR 28:1974 (September 2002), LR 30:2311 (October 2004), LR 33:2193 (October 2007), LR 37:2393 (August 2011), repromulgated LR 37:2623 (September 2011), LR 39:1043 (April 2013), amended by the Department of Health, Board of Speech-Language Pathology and Audiology, LR 42:1666 (October 2016), LR 45:251 (February 2019).

§111. Application for Telehealth Registration

A. An application to practice audiology and/or speech-language pathology via telepractice shall be made on forms supplied by the board.

B. Proof of unrestricted, unencumbered current licensure granted in the home state based on standards at least equivalent to those in Louisiana shall be submitted.

C. Applicants shall provide official verification of licensure and/or registration status in each state, including any formal disciplinary action resulting in sanction and/or disciplinary proceedings which are pending.

D. The initial telehealth registration fee submitted to this board shall be paid by cashier's check, money order, or credit card.

E. Until an application has been approved by the board, the audiologist and/or speech-language pathologist shall not engage in delivery of telepractice services to Louisiana residents.

F. Applicants who have not obtained registration within one year of having submitted the application shall be deemed to have abandoned the application, resulting in mandatory reporting to the appropriate federal data bank. An applicant may request a withdrawal of the application subject to review and approval by the board.

G. In order for telehealth registration to remain current in Louisiana, the individual must maintain an unrestricted, unencumbered current license in another state, whose standards are at least equivalent to those in Louisiana.

H. When there is probable cause to believe that an applicant practiced illegally in Louisiana as an audiologist and/or speech-language pathologist, the board may offer a consent agreement and order which will grant the individual registration, subject to the following specified terms and conditions.

1. Within 90 days of the date of the consent agreement and order, the applicant shall take and pass an open book examination regarding R.S. 37:2650-2666, the board's rules and regulations, and ethical questions.

a. Open book test fee shall be \$30. The retest fee shall be \$10 per section.

b. Applicants have 4.5 hours to complete all sections of the test.

c. The open book examination or any section may be re-taken anytime within the 90 days.

d. Notice of the consent agreement and order shall be published.

e. If the applicant fails to successfully complete all requirements set forth in the above paragraphs, the applicant's registration shall be suspended without further notice until the board receives and accepts documentation of the applicant's completion of the consent agreement and order requirements.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2650 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health, Board of Examiners for Speech-Language Pathology and Audiology, LR 45:253 (February 2019).

§113. Criminal History Record Information

A. In addition to any other requirements established by regulation, an applicant is required, as a condition for eligibility for licensure, to:

1. submit a full set of fingerprints, in a form and manner prescribed by the board;
2. permit the board to obtain state and national criminal history record information on the applicant;
3. submit the fee for state and national criminal history record information on the applicant.

B. Any and all state or national criminal history record information obtained by the board from the bureau or FBI which is not already a matter of public record shall be deemed non-public and confidential information restricted to the exclusive use of the board, its members, investigators, agents, and attorneys in evaluating the applicant's suitability and eligibility for licensure. No such information or records shall, except with the written consent of the applicant or by order of a court of competent jurisdiction, be released or otherwise disclosed by the board to any other person or agency.

C. An applicant who denies the existence or extent of criminal history record information on an application, which is discovered by information, records, or documentation provided by the state police, FBI, or any other state, national, or foreign jurisdiction shall, in addition to the potential disqualification of licensure for any of the causes specified in §141 of this Chapter, be deemed to have provided false, misleading, or deceptive information, or false sworn information on an application for licensure, and to have engaged in unprofessional conduct, providing additional 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 an applicant in the state of Louisiana culpable of such violation, pursuant to R.S. 37:2662.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2650 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health, Board of Examiners for Speech-Language Pathology and Audiology, LR 45:254 (February 2019).

§115. Licensure by Reciprocity (Formerly §111)

A. The board may waive the examination for applicants who present proof of current licensure in another state with standards equivalent to those of Louisiana.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2650 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Examiners for Speech-Language Pathology and Audiology, LR 14:707 (October 1988), amended LR 22:354 (May 1996), LR 30:2311 (October 2004), amended by the

Department of Health, Board of Speech-Language Pathology and Audiology, LR 45:254 (February 2019).

§117. Additional Requirements for International Applicants/Speakers of English as a Second Language (Formerly §113)

A. Any document required to be submitted to this board with an application for a license shall be in the English language, or accompanied by a certified translation thereof into the English language.

B. As a condition of the board's consideration of the license application of a graduate of a foreign college or university, the applicant shall provide the board with an evaluation of the applicant's transcript from an approved credentials evaluation agency. A list of approved agencies, and their addresses, may be obtained from the board.

C. Because the essence of the practice of audiology and speech-language pathology is communication, an applicant whose primary language is not English shall submit a passing score on a nationally recognized English proficiency examination as approved by the board, and make an appearance before the board or its designees before a license may be issued. An English proficiency assessment shall be conducted by the board or its designees as a condition for licensure. At the board's discretion, the license may be conditionally granted subject to an English remediation plan and/or restrictions on practice.

D. The clinical observation and clinical practicum for a speech-language pathologist educated outside the United States must consist of at least 400 patient contact hours, to include:

1. at least 25 hours in supervised observation prior to the clinical practicum. Patient contact hours in excess of the required minimum may be substituted for the required 25 hours of supervised observation;
2. at least 375 patient contact hours in speech-language pathology. Practicum experiences must be:
 - a. across the scope of practice in speech-language pathology;
 - b. with clients across the lifespan;
 - c. across the range of clinical severity.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2650 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Examiners for Speech-Language Pathology and Audiology, LR 14:707 (October 1988), amended LR 22:354 (May 1996), LR 27:201 (February 2001), LR 30:2311 (October 2004), LR 37:2394 (August 2011), amended by the Department of Health, Board of Speech-Language Pathology and Audiology, LR 45:254 (February 2019).

§119. Requirements to Upgrade License (Formerly §115)

A. The provisional speech-language pathology licensee who has not passed the examination at the time of initial licensure shall submit the following to upgrade his/her license status:

1. an official copy of a passing score on the Educational Testing Service area examination;
2. verification of 36 weeks of full-time postgraduate professional employment/experience or its part-time equivalent in the field the license is held;
3. proof of supervision through date of upgrade (Form 100);

4. upgrade fee of \$30.

B. The provisional speech-language pathology licensee who has not completed the thirty-six weeks of postgraduate professional employment/experience at the time of initial licensure shall submit the following to upgrade his/her license status:

1. verification of 36 weeks of full-time postgraduate professional employment/experience or its part-time equivalent in the field the license is held;

2. proof of supervision through date of upgrade (Form 100);

3. upgrade fee of \$30.

C. The provisional speech-language pathology assistant shall submit the following to upgrade his/her license status:

1. proof of 225 supervised clinical practicum hours shall be on file in the board's office. Only direct supervision hours and/or university practicum hours may be counted towards the 225 hours;

2. upgrade fee of \$30.

D. The restricted audiology or restricted speech-language pathology licensee who holds a master's degree or its equivalent in audiology or speech-language pathology shall submit the following documents to upgrade their license:

1. an official copy of a passing score on the Educational Testing Service area examination;

2. verification of 36 weeks of post-graduate professional employment/experience or its part-time equivalent in the field in which the license is held;

3. proof of supervision through date of upgrade (Form 100);

4. upgrade fee of \$30.

E. Only those hours that have been obtained on-the-job as paid professional experience may be counted towards an upgrade.

F. Restricted speech-language pathology licensees who hold a bachelor's degree who wish to change their status to a provisional speech-language pathology license shall submit an application for license and meet the requirements of R.S. 37:2659.

G. Speech-language pathology assistant licensees who wish to change their status to a provisional speech-language pathology license shall submit an application for license and meet the requirements of R.S. 37:2659.

H. Postgraduate professional employment/experience which counts toward upgrading the license status will only be accepted from the date that the licensee's application was received by the board.

I. It is the responsibility of the licensee to submit the documents and make a written request for upgrade of his/her license status. Licensees shall complete all supervision requirements consistent with the license held and immediately thereafter submit appropriate supervision forms to the board office along with a written request for license upgrade and the upgrade fee. The licensee shall remain under supervision until the upgrade has been approved by the board.

J. If a passing score on the Educational Testing Service's specialty area examination in speech-language pathology is not submitted within one year from the date of issuance of the license, a provisional licensee must apply for a speech-language pathology assistant license. This

individual may perform only those duties as specified in §119 and must be supervised in accordance with the requirements specified in §129.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2650 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Examiners for Speech-Language Pathology and Audiology, LR 22:349 (May 1996), amended LR 27:197 (February 2001), LR 28:1971 (September 2002), LR 30:2312 (October 2004), LR 33:2194 (October 2007), LR 37:2394 (August 2011), amended by the Department of Health, Board of Speech-Language Pathology and Audiology, LR 45:254 (February 2019).

§121. Duties: Speech-Language Pathology Assistant License and Provisional Speech-Language Pathology Assistant License (Formerly §117)

A.1. All duties performed by the speech-language pathology assistant licensee or provisional speech-language pathology assistant licensee shall be assigned by a licensed speech-language pathologist and shall be supervised in accordance with the rules and regulations specified by the board. Caseload assignments shall be consistent with the knowledge base and training of the licensee for the performance of the following tasks:

a. conduct speech-language screenings and assessments without interpretation, following specified protocols as developed by the supervising speech-language pathologist. An assistant may not administer a test if the publisher's examiner requirements dictate administration by a graduate-degreed individual. All screening and assessment reports shall be cosigned and interpreted by the supervising speech-language pathologist;

b. perform hearing screenings limited to a pass/fail determination for the purpose of initial identification of disorders, following specified protocols as approved by the supervising speech-language pathologist;

c. provide direct treatment which is within the level of training and experience as prescribed by the supervising speech-language pathologist to a caseload of patients/clients who demonstrate communication disorders. Supervision of treatment shall be in accordance with the rules and regulations specified by the board;

d. follow treatment plans or protocols as developed and documented by the supervising speech-language pathologist;

e. document patient/client progress toward meeting established objectives as stated in the treatment plan;

f. schedule activities, prepare charts, records, graphs, or otherwise display data;

g. perform checks and maintenance of equipment;

h. speech-language pathology assistants may participate in parent conferences, individual education plan meetings (IEP), case conferences, interdisciplinary team conferences, and research projects. Provisional speech-language pathology assistants may participate in these activities only with the supervising speech-language pathologist.

2. Duties outside the Scope of Practice of a Speech-Language Pathology Assistant and Provisional Speech-Language Pathology Assistant

a. The speech-language pathology assistant licensee and provisional speech-language pathology assistant shall not:

- i. perform clinical tasks without the knowledge and approval of the supervising speech-language pathologist;
- ii. conduct evaluations, even under supervision.
- iii. interpret test and assessment results;
- iv. screen or diagnose clients for feeding and swallowing disorders;
- v. demonstrate swallowing strategies or precautions to clients, family, or staff;
- vi. engage in service delivery via telepractice; however, the individual may function as a facilitator given appropriate training.
- vii. work with a communication or related disorder unless s/he has had sufficient coursework with appropriate supervised practicum in that area obtained through a regionally accredited educational institution or its cooperating programs;
- viii. provide patient/client or family counseling;
- ix. select and/or discharge patients/clients for services without the approval of the supervising speech-language pathologist;
- x. disclose clinical or confidential information either orally or in writing to anyone not designated by the supervising speech-language pathologist and without the authorization of the patient/client or their designee;
- xi. make referrals for additional services without the approval of the supervising speech-language pathologist;
- xii. participate in individualized family service plan (IFSP) meetings without the supervising speech-language pathologist.

3. The speech-language pathology assistant and the provisional speech-language pathology assistant shall not perform any clinical task without the knowledge and approval of the supervising speech-language pathologist.

4. Failure to comply with these rules and regulations may result in disciplinary action against the assistant and/or the supervising speech-language pathologist.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2650 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Examiners for Speech-Language Pathology and Audiology, LR 30:2312 (October 2004), amended LR 33:2194 (October 2007), LR 37:2394 (August 2011), amended by the Department of Health, Board of Speech-Language Pathology and Audiology, LR 45:255 (February 2019).

§123. Fees
(Formerly §119)

A. The board collects the following fees, which are non-refundable:

- 1. initial Louisiana license application—\$125;
- 2. dual license application—\$225;
- 3. renewal of license submitted on or before June 30, of each year—\$65:
 - a. dual licensure renewal—\$90;
- 4. delinquent renewal fee submitted between July 1 and July 31, of each year—\$130;
 - a. dual licensure renewal—\$180;
- 5. initial telehealth registration fee—\$50;
- 6. renewal of telehealth registration submitted on or before June 30, of each year—\$25;
- 7. renewal of telehealth registration submitted between July 1 and July 31, of each year—\$50;
- 8. licensure upgrade—\$30;

- 9. continuing education pre-approval fee for corporations or individuals who are not LBESPA licensees—\$50;
- 10. mailing lists:
 - a. \$200 for speech-language pathologists;
 - b. \$25 for audiologists
 - c. \$25 for speech-language pathology assistants
- 11. NSF or returned check—\$40;
- 12. open book test fee—\$30;
 - a. open book retest fee, per section—\$10;
- 13. publications to include law, rules, etc.—\$5 ea. plus postage and handling;
- 14. re-issuance of license or registration certificate—\$25;
- 15. subpoena within East Baton Rouge Parish—\$50:
 - a. subpoena plus state-allowed travel rate per mile outside East Baton Rouge Parish—\$50;
- 16. verification of license or registration (written)—\$10;
- 17. an additional fee may be charged for credit card transactions in accordance with state treasury rules.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2650 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Examiners for Speech-Language Pathology and Audiology, LR 14:706 (October 1988), amended LR 22:350 (May 1996), LR 27:197 (February 2001), repromulgated LR 27:1691 (October 2001) amended LR 30:2313 (October 2004), LR 33:2195 (October 2007), LR 37:2395 (August 2011), amended by the Department of Health, Board of Speech-Language Pathology and Audiology, LR 42:1666 (October 2016), LR 45:256 (February 2019).

§125. Renewals
(Formerly §121)

A. All licenses and registrations shall be renewed annually by June 30, to avoid delinquent renewal fees.

B. Initial licenses and registrations issued during the last quarter of the fiscal year, i.e., April, May, and June, will not be required to be renewed during that fiscal year. No continuing education hours will be required of the licensee or registrant for that period.

C. Licensees shall list on their renewal form the licensees (i.e., provisional speech-language pathologists, restricted speech-language pathologists, restricted audiologists, speech-language pathology assistants, or provisional speech-language pathology assistants) and aides that they are supervising.

D. It is the licensee's and registrant's continuing obligation to keep the board informed of his/her current mailing address.

E. Licensees shall participate in continuing professional education activities for each license period, July 1-June 30, in accordance with §127.

F. Inactive status is granted to licensees who are retired or who do not practice audiology or speech-language pathology during the fiscal year, July 1-June 30.

1. Licensees on inactive status may retain their license by payment of the annual renewal fee.

2. These licensees shall complete the affidavit on the continuing education report and submit it at the time of licensure renewal.

3. The licensee may submit the required five hours of continuing education each year he/she is on inactive status or

submit all of the hours the year he/she returns to work in the profession.

4. Licensees on inactive status or who are retired shall not supervise individuals or otherwise engage in the practice of audiology or speech-language pathology.

5. In order to resume the practice of audiology or speech-language pathology, licensees on inactive status shall demonstrate completion of 5 clock hours of continuing education in the area of licensure for each year that inactive status was maintained (maximum of 25 hours). In addition, a letter requesting a change to active status must be submitted to the board office prior to resuming the practice of audiology or speech-language pathology.

G. Licensees who hold a license requiring supervision and who are not working in the field of audiology and/or speech-language pathology shall submit a notarized statement at the time of license renewal attesting to the fact that they did not work in the profession during the license period.

H. The board may refuse to consider any renewal application which is not complete in every detail, including submission of every document required by the application form and instructions. The board may, in its discretion, require additional information as a condition for consideration of the application.

I. Renewal applications from individuals who have defaulted on a loan from the Louisiana Office of Financial Assistance as per LA R.S. 37:2951 will be denied until such time as a release is received from the Louisiana Office of Financial Assistance noting that a repayment agreement has been established.

J. Renewal will be denied for licensees who are in default on the repayment of any loan guaranteed in accordance with R.S. 17:3023(A)(8) and R.S. 37:2951(A)(E).

K. Delinquent Renewal

1. Delinquent requests for renewals will be accepted by the board through July 31, provided the delinquent renewal fee is paid in accordance with §121(4) and the continuing education requirements have been met.

2. A licensee whose license lapsed on August 1, and applies to reinstate prior to the following June 30, is required to submit a completed application, proof of continuing education, initial license fee and delinquent renewal fee in accordance with §123 and §127.

3. A licensee whose license lapsed on August 1, and applies for reinstatement after June 30, of the following year, is required to submit a completed application, proof of continuing education, and is subject to the initial license fee and delinquent renewal fee and the requirements of §127.

4. A registrant whose registration lapsed on August 1, must complete the initial application process for telehealth registration.

L. Conditional Renewal

1. Licensees who previously held a full, valid license which was obtained under the grandfather clause of Act 260 of the 1978 Regular Session of the Louisiana Legislature, whether delinquent or lapsed, for a period not to exceed five years, shall be eligible for licensure renewal or reinstatement upon meeting the continuing education requirement and submitting the appropriate renewal fee in accordance with §123. If the license has lapsed for a period of more than five

years, applicants shall reapply in accordance with the requirements enumerated in R.S. 37:2651 et seq., as amended by Act 892 of the 1995 Regular Session of the Louisiana Legislature.

2. Licensees who previously held a restricted license which was obtained under Act 260 of the 1978 Regular Session of the Louisiana Legislature, whether delinquent or lapsed, shall be eligible for licensure renewal or reinstatement, upon meeting the continuing education requirement and submitting the appropriate renewal fee as required in accordance with §123 and §127.

3. Licensees who allow their license to lapse (August 1) shall submit documentation of completion of five clock hours of continuing education (maximum of 25 hours) in the area of licensure for each year that the license has lapsed in addition to meeting the license requirements enumerated in R.S. 37:2650 et seq.

4. Licensees who have allowed their license to lapse for a period of 5 years or greater, and do not hold a current audiology or speech-language pathology license in another state, must submit evidence of 25 continuing education hours directly related to the clinical practice of the license being sought and must have been obtained within the past 18 months.

5. Licensees who have allowed their license to lapse for a period of 10 years or greater, and do not hold a current audiology or speech-language pathology license in another state, must submit a passing score on the Educational Testing Service's specialty area examination for audiology or speech-language pathology, as applicable to the license being sought, achieved no more than five years prior to the submission of the request for reinstatement.

6. Renewal of a license will not be granted until all requirements including mandated continuing education hours have been completed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2650 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Examiners for Speech-Language Pathology and Audiology, LR 14:707 (October 1988), amended LR 22:351 (May 1996), LR 27:198 (February 2001), LR 28:1972 (September 2002), LR 30:2314 (October 2004), LR 33:2195 (October 2007), LR 37:2395 (August 2011), LR 39:1043 (April 2013), amended by the Department of Health, Board of Speech-Language Pathology and Audiology, LR 42:1667 (October 2016), LR 45:256 (February 2019).

§127. Continuing Education Requirements (Formerly §123)

A. Each licensee shall complete continuing professional education activities of at least 10 clock hours each license period, July 1-June 30.

B. Of the 10 hours, five shall be educational activities directly related to the scope of practice of the licensee and must be designed to increase the knowledge and skills in the area of licensure.

C. Of the 10 hours, five may be in areas related to the professions of audiology and speech-language pathology. Such activities shall increase knowledge and skills pertinent to practice. Examples include: billing, coding, and reimbursement; record-keeping; ethics; supervision.

D. Audiologists who dispense shall ensure that at least 3 of the total 10 hours are in areas directly related to hearing aid dispensing, such as business/practice management,

marketing, aural habilitation/rehabilitation, diagnostic assessment, characteristics of hearing aids and their application, etc.

E. Dual licensees shall complete 15 hours per year with a minimum of five hours in audiology and five hours in speech-language pathology; the remaining five may be in areas related to the professions of audiology and speech-language pathology.

F. Out-of-state audiologists and speech-language pathologists who hold telehealth registration shall complete the continuing education requirements consistent with the license the individual possesses for the state in which the provider is located. Telehealth registrants residing in states which do not require continuing education for audiologists and/or speech-language pathologists shall complete the annual continuing education requirements specified in this Section and may be audited.

G. Continuing education events occurring in the month of June will be accepted for the collection period in which they occur or they may be counted in the following collection period which begins on July 1. Hours from one event may not be divided between two collection periods.

H. The graduated scale for the collection of continuing education hours is based on the date an applicant receives his/her initial license or registration.

License Received	Hours Required
April, May, June	0
January, February, March	3
October, November, December	6
July, August, September	10

I. In the case of extenuating circumstances, when the licensee does not fulfill the continuing education requirements, the licensee shall submit a written request for extension to the board for consideration.

J. Continuing education hours accrued during the applicant's grace period will be accepted.

K. Acceptable continuing education sponsors and activities that are directly related to the practice of audiology and/or speech-language pathology:

1. board-sponsored activities;
2. presentations in the area of communication disorders sponsored by professional organizations such as American Academy of Audiology (AAA), American Speech-Language-Hearing Association (ASHA), Louisiana Academy of Audiology (LAA), Louisiana Speech-Language-Hearing Association (LSHA), Speech Pathologists and Audiologists in Louisiana Schools (SPALS), Louisiana Society for Hearing Aid Specialists, etc. Business meetings, luncheons, award ceremonies, receptions, and other non-content area events are not recognized as acceptable continuing education activities;
3. activities provided by ASHA-approved continuing education providers or AAA-approved continuing education activities;
4. meetings of related professional organizations (e.g., Council for Exceptional Children, International Dyslexia Association);
5. college courses in the area of licensure with the exception of clinical practicum taken for credit or official audit (3 semester hours or 6 quarter hours=10 hours of continuing education);

6. distance learning (video conferences, telephone seminars and internet courses sponsored by universities, schools, clinics, state agencies, hospitals, professional organizations, or related professional organizations);

7. workshops and in-services that are university, school, clinic, hospital or state agency sponsored (maximum of five hours in a related area). Only content area workshop and in-service time shall count as earned continuing education. Documentation of staff development content must be separated from employee meeting activities such as announcements, review of deadlines, event planning, and other non-content area activities;

8. publication of an article in a peer-reviewed journal for the year in which it was published;

9. digital media (e.g. CD, DVD, online webinars, etc.) which is ASHA-approved or AAA-approved continuing education media;

10. the presenting licensee may count 1 1/2 times the value of an activity the first time it is presented to allow for preparation time (example: a 3 hour workshop=4 1/2 hours). The activity will count for the actual hour value for each subsequent presentation of the same activity;

11. teaching at the college level in the area of communication disorders is not acceptable.

L. Pre-Approval Policy

1. Pre-approval is required for continuing education events that do not meet the requirements as listed under §125.K.1-11, and pre-approval of continuing education events is required in those situations where it is unclear whether the topic is relevant to the profession or will further a professional's expertise in a particular area.

2. The licensee shall request pre-approval (minimum of 30 days in advance) of self-study activities, or other appropriate activities.

3. Individuals not licensed by LBESPA as well as corporations offering continuing education not addressed under §127.K., must submit a \$50 continuing education review fee along with the pre-approval request.

4. Licensees who elect to attend university classes/courses in audiology and/or speech-language pathology without payment of the university fee shall submit a self-study plan for pre-approval from the Louisiana Board of Examiners for Speech-Language Pathology and Audiology to receive continuing education credits.

5. Self-study activities in the area of communication disorders:

- a. digital media (maximum of 5 hours);
- b. reading of journal articles that contain self-examination questions. Articles shall be submitted for pre-approval (maximum of 5 hours).
6. Publication of diagnostic and/or therapeutic materials (maximum of 5 hours).

M. Recording of Continuing Education Activities

1. Licensees shall record all continuing education activities as prescribed by the board and submitted at the time of renewal.

2. Licensees shall maintain records of continuing education activities completed for three years.

3. Licensees shall not submit repeated continuing education activities for credit within a three-year period.

4. A percentage of licensees will be audited each year as a means of evaluating compliance with the continuing

education requirements. The board may request, through random audit, verification of clock hours submitted, including information regarding content and attendance. If the title of the activity does not clearly state the content, a description and/or time-ordered agenda may be required.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2650 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Examiners for Speech-Language Pathology and Audiology, LR 22:351 (May 1996), amended LR 27:199 (February 2001), LR 28:1973 (September 2002), LR 30:2314 (October 2004), LR 33:2196 (October 2007), LR 37:2395 (August 2011), LR 39:1043 (April 2013), amended by the Department of Health, Board of Speech-Language Pathology and Audiology, LR 42:1667 (October 2016), LR 45:257 (February 2019).

§129. Supervision Requirements for Restricted License and Provisional Speech-Language Pathology License (Formerly §125)

A. Restricted licensees and provisional speech-language pathology licensees are required to undergo direct supervision by a licensed speech-language pathologist, licensed in accordance with R.S. 37:2659(B). Direct and indirect supervision must occur in every work setting in which the licensee is employed. An audiologist, licensed in accordance with R.S. 37:2659(A) may supervise these individuals for the purpose of hearing screening.

B. A supervising speech-language pathologist must have a minimum of one year of full-time professional speech-language pathology experience following the postgraduate professional/employment experience. Full-time employment in a school system for the school year is considered to meet this requirement.

C. Prior to the initiation of supervision of a restricted or provisional licensee, training in the area of supervision is strongly recommended.

D. An individual may not be supervised by a provisional licensee, restricted licensee, assistant licensee, an individual on inactive status, a telehealth registrant, or a family member.

E. Supervision must involve the direct participation of the supervisor in order for the supervisor to monitor, observe, evaluate, and make suggestions for improvement regarding the supervisee's professional employment.

F. Restricted licensees and provisional speech-language pathology licensees must submit a supervisory agreement signed by the supervisor and supervisee as prescribed by the board. The form must be submitted to the board by the supervisee within 30 days of employment and submitted annually at the time of renewal. If there is a change in supervisor(s) at any time, a new supervisory agreement must be submitted to the board within 30 days of the change in supervision. If there are multiple supervisors for the same supervisee, all supervisors must sign the supervisory agreement.

G. Speech-language pathologists may share the supervision responsibility for provisional or restricted licensees, but each supervising speech-language pathologist shall complete and submit the necessary supervision forms.

H. Supervisory records, including supervision logs and other documentation of supervision, shall be maintained by both the supervisor and supervisee for a period of three years. Documentation of supervision may be requested by the board.

I. The direct supervision of the licensee, whether employed full-time or part-time, shall include 16 monitoring activities annually.

1. At least eight shall be direct observations divided between the areas of diagnostics and management. The direct observations must be equal to or greater than a total of eight hours. Indirect supervision may include conferences, audio and video recordings, review of written records, staffings and discussions with other persons who have participated in the licensee's training.

2. For 12-month employees, two direct observations shall be conducted each quarter.

3. For nine-month employees, four direct observations shall occur in each semester. If the nine-month employment is extended for a period of time, additional direct as well as indirect supervision must occur.

J. Documentation of supervision shall be submitted annually at the time of license renewal on Form 100 provided by the board.

K. Licensees shall complete all supervision requirements consistent with the license held and immediately thereafter submit appropriate supervision forms to the board office along with a written request for license upgrade and the upgrade fee. The licensee shall remain under supervision until the upgrade has been approved by the board.

L. The board will accept supervision provided out-of-state by an individual licensed or ASHA-certified in the area of practice. Supervision must be documented on Form 100.

1. Restricted licensees and provisional speech-language pathology licensees who have not worked in Louisiana may submit their clinical fellowship report as proof of supervision that was carried out during the license period. Otherwise, licensees must submit at the time of license renewal, appropriate proof of supervision consistent with Louisiana supervision requirements.

M. Licensees who are not working in the field of speech-language pathology and who hold a license requiring supervision, shall submit a notarized statement at the time of license renewal attesting to the fact that they did not work in the profession during the license period.

N. All costs of supervision shall be borne by the licensee or his/her employer, but in no event will those costs be borne by the board.

O. When supervision requirements have not been met in accordance with §129, licensees shall complete additional months of supervision to replace months of incomplete supervision.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2650 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Examiners for Speech-Language Pathology and Audiology, LR 14:707 (October 1988), amended LR 22:352 (May 1996), LR 27:199 (February 2001), LR 28:1974 (September 2002) LR 30:2315 (October 2004), LR 33:2196 (October 2007), LR 37:2396 (August 2011), LR 39:1043 (April

2013), amended by the Department of Health, Board of Speech-Language Pathology and Audiology, LR 45:259 (February 2019).

§131. Supervision Requirements for Speech-Language Pathology Assistant and Provisional Speech-Language Pathology Assistant (Formerly §127)

A. A supervising speech-language pathologist must have a minimum of one year of full-time professional speech-language pathology experience following the postgraduate professional/employment experience. Full time employment in a school system for the school year is considered to meet this requirement.

B. Prior to the initiation of supervision of an assistant or provisional assistant, training in the area of supervision is strongly recommended.

C. An individual may not be supervised by a provisional licensee, restricted licensee, assistant licensee, an individual on inactive status, a telehealth registrant, or a family member.

D. The supervision requirements specified in these regulations are minimum requirements. It is the responsibility of the speech-language pathologist to design and provide a supervision system that protects patient/client care and maintains the highest possible standards of quality.

E. Supervision must involve the direct participation of the supervisor in order for the supervisor to monitor, observe, evaluate, and make suggestions for improvement regarding the supervisee's employment.

F. The supervisor is responsible for ensuring that the assistant does not make decisions regarding evaluation, management and future disposition of clients.

G. The supervisor is responsible for initial consultation with the assistant regarding coursework and practicum experiences prior to caseload assignment. The supervising speech-language pathologist shall assign only those tasks for which the assistant has been trained.

H. Decision-making regarding specification of on-going treatment protocol and necessary modifications, is the responsibility of the supervisor. The level of supervision required is considered the minimum necessary to ensure appropriate patient/client care.

I. The supervising speech-language pathologist shall be readily available for consultation with the assistant licensee. This includes personal contact, telephone, or other means of communication.

J. Speech-language pathology assistants and provisional speech-language pathology assistants must submit a supervisory agreement signed by the supervisor and supervisee as prescribed by the board. The form must be submitted to the board by the supervisee within 30 days of employment and submitted annually at the time of renewal. If there is a change in supervisor(s) at any time, a new supervisory agreement must be submitted to the board within 30 days of the change in supervision. If there are multiple supervisors for the same supervisee, all supervisors must sign the supervisory agreement.

K. Speech-language pathologists may share the supervision responsibility for speech-language pathology assistants or provisional speech-language pathology assistants, but each supervising speech-language pathologist shall complete and submit the necessary supervision forms.

L. Supervisory records, including supervision logs and other documentation of supervision, shall be maintained by both the supervisor and supervisee for a period of three years. Documentation of supervision may be requested by the board.

M. The board will accept supervision given out-of-state by a licensed or ASHA certified speech-language pathologist in the area of licensure. Licensees must submit at the time of license renewal, appropriate proof of supervision consistent with Louisiana supervision requirements.

N. Assistants who are not working in the field of speech-language pathology shall submit a notarized statement at the time of license renewal attesting to the fact that they did not work in the profession during the license period.

O. Although more than one speech-language pathologist may provide supervision of an assistant licensee and provisional assistant licensee, at no time may a licensed speech-language pathologist supervise or be listed as a supervisor for more than three assistant or provisional assistant licensees. When multiple supervisors are used, the supervisors are encouraged to coordinate and communicate with each other.

P. Provisional speech-language pathology assistants and speech-language pathology assistants must undergo direct supervision as well as indirect supervision in every work setting in which the licensee is employed.

Q. Documentation of supervision shall be submitted annually at the time of license renewal on Form 200 provided by the board.

R. Supervision Requirements for the Speech-Language Pathology Assistant

1. A minimum of one clock hour of direct supervision shall be completed in the primary work setting each week for each licensee. If the assistant is employed in more than one work setting, additional direct supervision must occur in the secondary work setting.

2. A minimum of one clock hour of indirect supervision shall be completed each week for each licensee. These activities should include, but are not limited to:

- a. specifying protocols for speech-language screenings and assessments conducted by the assistant licensee;
- b. specifying protocols for hearing screenings conducted by the assistant licensee;
- c. approving treatment plans or protocols and documenting approval;
- d. monitoring patient/client progress toward meeting established objectives;
- e. monitoring, scheduling, charting and data collection;
- f. directing maintenance of equipment;
- g. directing research projects, in-service training and public relations programs;
- h. conducting telephone conferences.

3. If circumstances prohibit a supervisor from completing the minimum supervision requirements (§131.R.1 and 2) in a given week, the remaining supervision shall be completed the following week in conjunction with the required supervision hours for that week.

4. When the supervising speech-language pathologist is unavailable for supervision for more than one week,

arrangements shall be made for another qualified supervisor or the speech-language pathology assistant shall be transferred to other duties.

5. Speech-Language Pathology Assistant Full-Time and Part-Time Supervision Requirements

Hours Worked	Required Direct Supervision	Required Indirect Supervision
21-40 hours	1 hour/week	1 hour/week
20 hours or less	1 hour/every 2 weeks	1 hour/every 2 weeks

6. Assistant licensees shall be supervised only by a speech-language pathologist licensed under the provisions of R.S. 37:2659(B) with the exception of hearing screenings which may be supervised by an audiologist, licensed under the provisions of R.S. 37:2659(A).

S. Supervision Requirements for the Provisional Speech-Language Pathology Assistant

1. A minimum of three clock hours of direct supervision shall be completed in the primary work setting each week for each licensee. If the provisional speech-language pathology assistant is employed in more than one work setting, additional direct supervision must occur in the secondary work setting.

2. A minimum of two clock hours of indirect supervision shall be completed each week for each licensee.

3. These activities should include, but are not limited to:

- a. specifying protocols for speech-language screenings and assessments conducted by the assistant licensee;
- b. specifying protocols for hearing screenings conducted by the assistant licensee;
- c. approving treatment plans or protocols and documenting approval;
- d. monitoring patient/client progress toward meeting established objectives;
- e. monitoring scheduling, charting and data collection;
- f. directing maintenance of equipment;
- g. directing research projects, in-service training and public relations programs;
- h. conducting telephone conferences.

4. If extenuating circumstances prohibit a supervisor from completing the minimum supervision requirements (§131.S.1 and 2) in a given week, the remaining supervision shall be completed the following week in conjunction with the required supervision hours for that week.

5. When the supervising speech-language pathologist is out for more than one week, arrangements shall be made for another qualified supervisor or the provisional speech-language pathology assistant shall be transferred to other duties.

6. When supervision requirements have not been met, in accordance with §131 licensees shall complete additional months of supervision to replace months of incomplete supervision.

7. Provisional Speech-Language Pathology Assistant Full-Time and Part-Time Supervision Requirements

Hours Worked	Required Direct Supervision	Required Indirect Supervision
21-40 hours	3 hours/week	2 hours/week

Hours Worked	Required Direct Supervision	Required Indirect Supervision
20 hours or less	1.5 hours/every 2 weeks	1 hour/every 2 weeks

8. Provisional assistant licensees shall be supervised by a speech-language pathologist licensed under the provisions of R.S. 37:2659(B) with the exception of hearing screenings which may be supervised by an audiologist, licensed under the provisions of R.S. 37:2659(A).

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2650 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Examiners for Speech-Language Pathology and Audiology, LR 14:707 (October 1988), amended LR 22:353 (May 1996), LR 27:200 (February 2001), repromulgated LR 27:1691 (October 2001), amended LR 30:2316 (October 2004), LR 33:2197 (October 2007), LR 37:2396 (August 2011), amended by the Department of Health, Board of Speech-Language Pathology and Audiology, LR 45:260 (February 2019).

§133. Independent Practice (Formerly §129)

A. Licensed audiologists and speech-language pathologists, by virtue of academic coursework, clinical practicum, and professional experience, are qualified to engage in the autonomous or independent practice of the professions. Individuals who hold a license, i.e., provisional, restricted, assistant or provisional assistant, mandating supervision during the practice of the professions may not engage in the autonomous or independent practice of audiology or speech-language pathology.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2650 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Examiners for Speech-Language Pathology and Audiology, LR 33:2198 (October 2007), amended by the Department of Health, Board of Speech-Language Pathology and Audiology, LR 45:261 (February 2019).

§135. Telepractice (Formerly §130)

A. Telepractice, regardless of where the service is rendered or delivered, constitutes the practice of audiology or speech-language pathology and shall require Louisiana licensure for in-state practitioners and telehealth registration for out-of-state licensed practitioners.

B. A provider of telehealth services shall be competent in both the type of services provided and the methodology and equipment used to provide the services.

C. A provider of telehealth services must use methods for protecting client information that include authentication and encryption technology.

D. The standard of care shall be the same as if the audiology or speech-language pathology services were delivered face-to-face. It is the responsibility of the provider to determine candidacy and to ensure that the client is comfortable with the technology being utilized.

E. The client shall be notified of telehealth services including but not limited to the right to refuse telehealth services, options for service delivery, and instructions on filing and resolving complaints, in all applicable jurisdictions.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2650 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Examiners for Speech-Language Pathology and Audiology, LR 39:1044 (April 2013), amended by

the Department of Health, Board of Speech-Language Pathology and Audiology, LR 42:1668 (October 2016), LR 45:261 (February 2019).

§137. Hearing Aid Dispensing (Formerly §131)

A. Audiologists who dispense hearing aids shall meet the coursework and practicum requirements for dispensing as specified in R.S. 37:2650 et seq.

B. Audiologists who dispense hearing aids shall maintain annual calibration records on audiometric equipment.

C. Audiologists who dispense hearing aids shall comply with the following:

1. Audiologists shall ensure that a pre-purchase evaluation includes:

- a. a case history;
- b. an otoscopic examination;
- c. a basic audiological test battery conducted within

the preceding six-month period in a sound-treated environment unless the patient's physical condition prohibits accomplishment of these procedures. The battery shall include:

- i. basic comprehensive audiometry;
- ii. appropriate tolerance testing;

d. middle ear measurements shall also be obtained when indicated.

2. Audiologists shall provide the consumer with a minimum 30-day trial period on all new hearing aids purchased.

3. Audiologists shall inform the consumer of the total cost of the hearing aid, including any fees for returning the aid at the end of the trial period.

4. Audiologists shall conduct a post-fitting evaluation that includes functional gain measurements conducted in a sound treated environment and/or real ear measurements unless the patient's physical conditions prohibit accomplishment of these procedures.

5. Audiologists who engage in the fitting or selling of hearing aids shall deliver to each person supplied with a hearing aid, a bill of sale which shall contain the dispenser's signature, address and license number, together with a description of the make, model and serial number of the hearing aid and the amount charged. The bill of sale shall also indicate whether the hearing aid is new, used, or reconditioned.

D. Licensed Audiologists who did not hold a doctoral degree and were not registered to dispense hearing aids prior to August 1, 2016 and who wish to include hearing aid dispensing as a component of their practice, must have proof of appropriate training, education and experience in the area of hearing aid dispensing. These audiologists who wish to include dispensing as part of their practice shall submit a self-study for pre-approval by the board. Upon culmination, the audiologist must submit a report documenting completion. An audiologist who meets the qualifications for licensure but lacks the coursework and practicum requirements necessary for registration as a dispenser may fulfill the requirements by:

1. Completing nine months of postgraduate professional employment/experience under the supervision of a licensed dispensing audiologist, and

2. By proof of the successful completion of a study course by the National Institute for Hearing Instruments Studies, or its equivalent. Equivalency for National Institute for Hearing Instruments Studies is defined as:

a. an individualized program of study that shall include:

i. hearing aid technology and dispensing courses sponsored by hearing aid manufacturers to include a minimum of 15 clock hours;

ii. workshops in the area of hearing aid technology and dispensing sponsored by professional organizations or individual practitioners to include a minimum of 15 clock hours;

iii. successful completion of university coursework in the area of hearing aid technology and dispensing; or

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2650 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Examiners for Speech-Language Pathology and Audiology, LR 22:353 (May 1996), amended LR 27:201 (February 2001), LR 28:1975 (September 2002), LR 30:2317 (October 2004), LR 33:2198 (October 2007), LR 37:2398 (August 2011), repromulgated LR 37:2624 (September 2011), amended by the Department of Health, Board of Speech-Language Pathology and Audiology, LR 42:1668 (October 2016), LR 45:262 (February 2019).

§139. Qualifications and Duties of Aides (Formerly §133)

A. Audiologists and speech-language pathologists are legally, ethically, and morally responsible for the services provided by aides working under their direction.

B. Requirements for the use of aides follow:

1. A licensed audiologist or speech-language pathologist may utilize an aide who meets the following qualifications. The aide shall:

- a. be of good moral character;
- b. be at least 18 years old;
- c. possess appropriate communication skills;
- d. have a high school diploma or G.E.D.

2. The supervising audiologist or speech-language pathologist is responsible for determining that the aide is qualified and prepared for the duties which s/he will be assigned. It is recommended that the aide be afforded continuing education opportunities. Appropriate areas of training may include:

- a. normal processes in speech, language and hearing;
- b. disorders of speech, language and hearing;
- c. record-keeping and data compilation;
- d. utilization of equipment and materials;
- e. professional ethics and their application to the aide's duties;
- f. administration of hearing screening tests.

C. Supervision

1. The licensed audiologist or speech-language pathologist shall provide periodic direct observation for each aide at least once per month during the initial year of the aide's employment. Speech-language pathology aides are required to undergo direct supervision by a licensed speech-language pathologist, licensed in the area in accordance with R.S. 37:2659(B). Audiology aides are required to undergo direct supervision by a licensed audiologist, licensed in the area in accordance with R.S. 37:2659(A). Audiology aides and speech-language pathology aides may not be supervised by a provisional licensee, restricted licensee, or assistant licensee.

2. The direct observation in subsequent years shall be established by the supervising audiologist or speech-language pathologist on an individual basis but shall be no less than once every three months.

3. The supervising audiologist or speech-language pathologist shall be readily available for consultation with the aide at all times.

4. Documentation of direct supervision shall be maintained by the supervising audiologist or speech-language pathologist and shall be submitted to the board upon request.

5. The supervising audiologist or speech-language pathologist shall report to the board at the time of licensure renewal, the names and employment locations of aides.

D. The speech-language pathology aide may engage in activities limited to those that are planned and directed by the supervising speech-language pathologist. Providing that the preparation, training, and supervision are appropriate, the following tasks may be assigned to speech-language pathology aides:

1. setting up room and equipment;
2. clearing room and storing equipment;
3. preparing materials (such as making copies, typing forms) for use by the speech-language pathologist;
4. checking equipment to determine if the equipment is performing adequately;
5. transporting patients/clients to and from sessions;
6. assisting with field trips;
7. performing hearing screenings limited to pure-tone air conduction screening and screening tympanometry;
8. recording, charting, graphing, or otherwise displaying objective data relative to the patient's/client's performance.

E. The audiology aide may engage in activities limited to those that are planned and directed by the supervising audiologist. Providing that the preparation, training, and supervision are appropriate, the following tasks may be assigned to audiology aides:

1. setting up room and equipment;
2. clearing room and storing equipment;
3. preparing materials (such as making copies, typing forms) for use by the audiologist;
4. checking equipment to determine if the equipment is performing adequately;
5. transporting patients/clients to and from sessions;
6. assisting with field trips;
7. performing hearing screening tests and pure-tone air conduction threshold tests without interpretation;
8. recording, charting, graphing, or otherwise displaying objective data relative to the patient's/client's performance.

F. Only the audiologist or speech-language pathologist shall exercise independent judgment in the provision of professional services. Specifically, the audiologist or speech-language pathologist may not delegate any of the following to the aide:

1. speech-language screening;
2. evaluation, diagnosis, or therapy with individuals with speech, language or hearing disorders;

3. interpretation of test and assessment results or discussion of confidential information despite the fact that this information may have been requested by the patient/client, parent or referring agency;

4. performance of any procedure for which the aide has not been trained.

G. Exemption. Aides employed on or before April 1996 may continue to operate under the provisions of Chapter 3, §§301-305 of the *Louisiana Register* 16:409 (May 1990) of the Louisiana Board of Examiners for Speech Pathology and Audiology.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2650 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Examiners for Speech-Language Pathology and Audiology, LR 16:409 (May 1990), amended LR 22:355 (May 1996), LR 27:201 (February 2001), LR 28:1781 (August 2002), LR 30:2318 (October 2004), LR 33:2199 (October 2007), amended by the Department of Health, Board of Speech-Language Pathology and Audiology, LR 45:262 (February 2019).

§141. Disciplinary Actions (Formerly §135)

A. This board may refuse to issue, may suspend or revoke a license for the practice of audiology or speech-language pathology or otherwise discipline an applicant or licensee, upon finding that the applicant or licensee has violated any provisions of R.S. 37:2650 et seq., or any of the rules or regulations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2650 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Examiners for Speech-Language Pathology and Audiology, LR 14:707 (October 1988), amended LR 22:354 (May 1996), LR 28:1975 (September 2002), LR 30:2319 (October 2004), LR 33:2200 (October 2007), amended by the Department of Health, Board of Speech-Language Pathology and Audiology, LR 45:263 (February 2019).

Chapter 3. Impaired Practitioner Program

§301. Purpose and Scope

A. - B.7. ...

C. The applicant or licensee will be responsible for executing all required releases of information and authorizations required for the board to obtain information from any monitor, treatment or service provider concerning the licensee's progress and participation in the program.

D. - G. ...

H. The board will, to the full extent permissible, maintain an agreement or consent agreement and order relating to the licensee's participation in the Impaired Practitioner Program as a confidential matter. The board retains the discretion to share information it deems necessary with those persons providing evaluation/assessment, therapy, treatment, supervision, monitoring or drug/alcohol testing or reports. Violation of any terms, conditions or requirements contained in any consent agreement and order, or board decision can result in a loss of the confidential status.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2650 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Examiners for Speech-Language Pathology and Audiology, LR 30:2319 (October 2004), amended LR 37:2398 (August 2011), amended by the Department of Health,

Chapter 5. Procedural Rules

§501. Investigation of Complaints

A. The board is authorized to receive from any person, a complaint(s) against licensees, registrants, applicants, or other persons engaging in practices which violate or are alleged to violate the provisions of R.S. 37:2650 et seq.

B. Any complaint bearing on a licensee or registrant's professional competence, conviction of a crime, unauthorized practice, mental competence, neglect of practice, or violation of state law or ethical standards where applicable to the practice of audiology or speech-language pathology shall be submitted to the board in writing and signed by the complainant.

C. The board is also authorized to initiate such complaints when the board otherwise possesses or obtains information suggesting such a complaint is warranted.

D. Once a written complaint is received, the board shall initiate a review of the allegations contained therein. The board may dispose of the complaint informally through correspondence or conference with the licensee, registrant, and/or the complainant, which may result in a private letter of concern or a consent agreement and order. If the licensee or registrant stipulates to the complaint and waives her/his right to a formal hearing, the board may impose appropriate sanctions without delay. If the board finds that a complaint cannot be resolved informally, the written complaint shall be forwarded to the board's designated investigator for investigation. The board shall at that time notify the licensee or registrant, by certified mail, return receipt requested, of the investigation.

E. The board's designated investigator shall have authority to investigate the nature of the complaint through conference, correspondence, and other investigative procedures, directed to those parties or witnesses involved. The board's designated investigator shall send the involved licensee or registrant notice by certified mail, return receipt requested, of the investigation containing a short summary of the complaint. All subsequent letters to the involved licensee or registrant, all letters to the complainant, or any other witness, shall be sent with a designation "personal and confidential" clearly marked on the outside of the envelope.

F. The board's designated investigator shall have authority to investigate the nature of the complaint through conference, correspondence, and other investigative procedures, directed to those parties or witnesses involved. The board's designated investigator shall send the involved licensee or registrant notice by certified mail, return receipt requested, of the investigation containing a short summary of the complaint. All subsequent letters to the involved licensee or registrant, all letters to the complainant, or any other witness, shall be sent with a designation "personal and confidential" clearly marked on the outside of the envelope.

G. The designated investigator shall conclude the investigation as quickly as possible, without compromising thoroughness. Unless good cause is shown by the designated investigator satisfactory to the board, which may extend the time for the investigation, the investigation and recommendations to the board shall be delivered to the board within 60 days of the date that the designated investigator first received the assignment from the board.

H. The designated investigator may determine that the licensee or registrant's explanation satisfactorily answers the complaint and may recommend to the board that the matter be dismissed.

I. If the designated investigator's recommendation for an informal hearing is accepted by the board, the designated investigator shall notify the licensee or registrant of the time, date, and place of the informal hearing and of the issues to be discussed. The licensee or registrant shall appear on a voluntary basis. The licensee or registrant shall be advised that the hearing will be informal, no attorneys will be present, and no transcript of the hearing will be made. Any witnesses who testify will not be placed under oath, and no subpoenas will be issued. The licensee or registrant shall be informed that any statements made at the informal hearing will not be used or introduced at a formal hearing, unless all parties consent. If the licensee or registrant notifies the designated investigator that s/he does not wish an informal hearing, or if the licensee or registrant fails or refuses to attend an informal hearing, the informal hearing shall not be held. In that event, the board shall initiate a formal disciplinary hearing.

J. A complaint may be resolved by:

1. a private letter of concern to the licensee, registrant, or other appropriate parties.
2. a consent agreement and order approved by the board and entered into by the licensee or registrant.

K. The designated investigator shall recommend to the board the initiation of a formal disciplinary hearing if the investigation discloses any of the following: the complaint is sufficiently serious to require a formal adjudication; the licensee or registrant fails to respond to the correspondence by the designated investigator concerning the complaint; the licensee or registrant's response to the designated investigator discloses that further action is necessary; an informal hearing is held but does not resolve all of the issues; or the licensee or registrant refuses to comply with the recommended remedial action.

L. The designated investigator shall submit any recommended action to the board in brief, concise language, without any reference to the particulars of the investigation, to any findings of fact or any conclusions of law arrived at during the investigative process.

M. The board shall have the authority to delegate to the designated investigator any alleged violations of the Speech-Language Pathology and Audiology Act, R.S. 37:2650 et seq., and any alleged violations of any and all rules and regulations adopted by the board pursuant thereto, prior to board action on those alleged violations. If requested by the board, the designated investigator shall submit to the board the complete investigation file. Final authority for appropriate action rests solely with the board including formal notification to the complainant, the licensee, or registrant.

N. At no time shall the designated investigator investigate any case as authorized by the board where the investigator has any personal or economic interest in the outcome of the investigation, or is personally related to or maintains a close friendship with the complainant, the licensee, the registrant, or any of the witnesses involved. In such event, the designated investigator shall immediately

notify the board, who shall appoint a substitute investigator for disposition of that particular case.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2650 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Examiners for Speech-Language Pathology and Audiology, LR 17:373 (April 1991), amended LR 22:356 (May 1996), LR 30:2320 (October 2004), LR 33:2200 (October 2007), LR 37:2398 (August 2011), amended by the Department of Health, Board of Speech-Language Pathology and Audiology, LR 42:1668 (October 2016), LR 45:264 (February 2019).

§503. Compliance Hearings

A. The board shall provide a compliance hearing to a rejected applicant for licensure or registration provided that the rejected applicant requests a compliance hearing in writing within 30 days of the receipt of the notice of rejection. The applicant's request for a compliance hearing shall state with specificity the reason(s) why the application should be accepted.

B. ...

C. The purpose and intent of the compliance hearing is to provide a forum for the applicant, licensee, or registrant to present documentary evidence, in the form of affidavits, public records, official records, letters, etc., along with testimony under oath to establish that the applicant, licensee, or registrant does, in fact, meet the lawful requirements for issuance of a license or registration, or the retention of the license or registration. The board shall have the authority to administer oaths, hear the testimony, and conduct the hearing. The applicant, licensee, or registrant may be represented by counsel, or may represent her/himself.

D. In any compliance hearing, the burden of proof shall rest with the applicant, licensee, or registrant.

E. Within 30 days after the compliance hearing, the board shall forward its final decision, including specific reasons thereof, by certified mail, return receipt requested, to the applicant, licensee or registrant.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2650 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Examiners for Speech-Language Pathology and Audiology, LR 17:374 (April 1991), amended LR 22:357 (May 1996), LR 27:201 (February 2001), LR 30:2321 (October 2004), LR 37:2399 (August 2011), amended by the Department of Health, Board of Speech-Language Pathology and Audiology, LR 45:265 (February 2019).

§505. Formal Disciplinary Hearings

A. If, after completion of the investigation, the board determines that the circumstances may warrant the withholding, denial, suspension, or revocation of a license or registration, or other disciplinary action, the board shall initiate a formal disciplinary hearing. The board shall promptly notify the attorney general who is authorized and directed to appear on behalf of the state. The hearing shall convene in the parish in which the board is domiciled. The hearing shall be held before the board only after the involved licensee is given at least 30-days' notice by certified mail, return receipt requested. The notice shall include the following:

A.1. - B. ...

C. The board shall arrange for a certified court reporter to make an accurate recording of all testimony presented and all documents entered into evidence at the hearing. A party

wishing to file documents into evidence shall provide the court reporter with a copy marked for identification as an exhibit and shall provide copies to each member of the hearing panel, the board's legal counsel, opposing counsel, as well as counsel for any joined parties, and/or any unrepresented parties.

D. - E. ...

F. It is the licensee and registrant's continuing obligation to keep the board informed of her/his whereabouts. Accordingly, if notice of the hearing cannot be delivered by mail because of a licensee or registrant's change of address and the new address is not provided to the board, the board may hold the hearing in the licensee or registrant's absence, after making reasonable efforts to obtain the licensee or registrant's new address.

G. Within 15 days of the licensee or registrant's receipt of notice, s/he may file a written answer to the notice, denying some or all of the charges, or offering any explanation or asserting whatever defense s/he deems applicable.

H. - J. ...

K. If the board finds by a preponderance of the evidence that the withholding, denial, suspension, or revocation of a license or registration, or other disciplinary action is warranted, the board shall sanction said individual according to the provisions of R.S. 37:2662(B):

1. refuse to issue a license or registration;
2. refuse to renew a license or registration;
3. issue a public letter of reprimand;
4. - 6. ...
7. suspend a license or registration;
8. revoke a license or registration;
9. ...
10. otherwise discipline a licensee or registrant.

L. A final decision or order adverse to a party in an adjudication proceeding shall be in writing or stated in the record within 45 days of the formal procedure. A final decision shall include findings of fact and conclusions of law. Findings of fact, if set forth in statutory language, shall be accompanied by a concise and explicit statement of the underlying facts supporting the findings. Parties shall be notified by the board, either personally or by certified mail, return receipt requested, of any decision or order. Upon request, a copy of the decision or order shall be mailed to each party and to her/his attorney of record.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2650 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Examiners for Speech-Language Pathology and Audiology, LR 17:374 (April 1991), amended LR 22:357 (May 1996), LR 30:2321 (October 2004), amended by the Department of Health, Board of Speech-Language Pathology and Audiology, LR 42:1669 (October 2016), LR 45:265 (February 2019).

§507. General Procedural Rules for Hearings

A. The board is empowered to issue subpoenas upon receipt of a written request from the licensee, registrant, or attorney general at least 15 days in advance of any scheduled hearing. The board shall issue said subpoenas upon receipt of said written request and receipt of any and all fees for subpoenas as provided for in §123.A. promulgated by the board.

B. - H. ...

I. Upon request by either the licensee, registrant, or the attorney general, witnesses shall be sequestered and not allowed in the hearing chambers during the hearing or permitted to discuss their testimony with other witnesses prior to the conclusion of the hearing.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2650 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Examiners for Speech-Language Pathology and Audiology, LR 17:374 (April 1991), amended LR 22:358 (May 1996), LR 27:201 (February 2001), LR 28:1975 (September 2002), LR 30:2322 (October 2004), LR 37:2399 (August 2011), amended by the Department of Health, Board of Speech-Language Pathology and Audiology, LR 45:265 (February 2019).

§512. Summary Suspension of License/Registration

A. The board may suspend an existing license or registration because of a person's conviction of a felony or misdemeanor if the crime directly relates to the duties and responsibilities of the licensee or registration. The board may also suspend an existing license or registration if there are allegations of fact that the board believes demonstrates a substantial likelihood that the licensee or registrant poses a risk of harm to the public health, safety or welfare.

B. If the board finds that public health, safety or welfare imperatively requires emergency action, and incorporates a finding to that effect in its order, summary suspension of a license or registration may be ordered pending proceedings for revocation or other action. These proceedings shall be promptly instituted and determined.

C. Following the proceedings, the notice to summarily suspend an existing license or registration shall be serviced personally upon the respondent or by certified mail or by other reasonable means. The notice shall inform the licensee or registrant of the opportunity, including the time and place, to appear before the board to show cause regarding why the license or registration should not be suspended. The opportunity for the licensee or registrant to be heard shall occur from 2 to 10 days following the summary suspension of the license or registration.

D. ...

AUTHORITY NOTE: Promulgated in accordance with R. S. 37: 2651-2666.

HISTORICAL NOTE: Promulgated by the Department of Hospitals, Louisiana Board of Examiners for Speech-Language Pathology and Audiology, LR 33:2201 (October 2007), amended by the Department of Health, Board of Speech-Language Pathology and Audiology, LR 45:266 (February 2019).

Chapter 7. Code of Ethics

§701. Preamble

A. The Code of Ethics of the Louisiana Board of Examiners for Speech-Language Pathology and Audiology specifies professional standards that govern clinical and scientific practice, direct professional conduct, provide for proper implementation of professionals' responsibilities to those served, and ensure the welfare of the consumer.

B. Any action that violates the intent and purpose of this code shall be considered unethical. Although the Code of Ethics cannot be inclusive of all specific situations, failure to delineate any particular responsibility or practice in this Code of Ethics shall not be construed as denial of the existence of such responsibilities or practices.

C. Principles of ethics form the underlying moral basis for the Code of Ethics. Individuals shall observe these

principles as affirmative obligations under all conditions of professional activity.

D. Rules of ethics are specific statements of minimally acceptable as well as unacceptable professional conduct which are applicable to all individuals.

E. Rules of Ethics for Audiology, Speech-Language Pathology, Provisional Speech-Language Pathology, and Restricted Speech-Language Pathology Licensees and Registrants

1. Principle of Ethics I. Licensees and registrants shall honor their responsibility to hold paramount the welfare of persons they serve professionally or who are participants in research and scholarly activities, provide professional services with honesty and compassion, and respect the rights of those served. The licensee or registrant shall take all reasonable precautions to avoid harm to the individual served professionally.

a. Individuals shall provide all clinical services and scientific activities competently.

b. Individuals shall use every resource, including interprofessional collaboration and referral when applicable, to ensure that appropriate service is provided.

c. Individuals shall not discriminate in the delivery of professional services or in the conduct of research and scholarly activities on the basis of race, ethnicity, citizenship, sex, gender identity/gender expression, sexual orientation, age, religion, national origin, disability, culture, language, or dialect.

d. Individuals shall not misrepresent their credentials nor those under their supervision including aides, assistants, technicians, other support personnel, students, research interns, or individuals completing the postgraduate professional employment/experience, and they shall fully inform those they serve professionally of the name, role, and credentials of persons providing services.

e. Individuals may delegate tasks related to the provision of clinical services to students, aides, assistants, technicians, or other support personnel only if those persons are adequately trained and appropriately supervised. The responsibility for the welfare of those served remains with the fully licensed individual.

f. Individuals shall not delegate tasks that require the unique skills, knowledge, judgment or credentials that are within the scope of practice of their profession to aides, assistants, technicians, other support personnel or nonprofessionals over whom they have supervisory authority.

g. Individuals shall obtain consent from the persons they serve only after a description of and discussion about the nature and possible risks and effects of services to be rendered, technology to be employed, and products to be dispensed. Consumers shall also be informed about possible effects of not engaging in treatment or following clinical recommendations. When the consumer is incapable of providing informed consent, individuals should seek authorization from a legally authorized/appointed representative or family member.

h. Individuals shall enroll and include persons as participants in research only if participation is voluntary, without coercion, and with informed consent.

i. Individuals shall accurately represent the intended purpose of a service, product, or research endeavor

and shall abide by established standards for clinical practice and the responsible conduct of research.

j. Individuals shall evaluate the effectiveness of services rendered, technology employed, and products dispensed and shall provide services or dispense products only when benefit can reasonably be expected.

k. Individuals shall not guarantee, directly or by implication, the results of any treatment or procedure; however, they may make a reasonable statement of prognosis.

l. Individuals shall use independent and evidence-based clinical judgment, keeping paramount the welfare of those served.

m. Individuals shall not provide clinical services solely by correspondence but may provide services via telepractice consistent with professional standards and state and federal regulations.

n. Individuals shall protect the confidentiality of any professional or personal information about persons served professionally or participants involved in research and scholarly activities, and may disclose confidential information only when doing so is necessary to protect the welfare of the person or of the community, is legally authorized, or is otherwise required by law.

o. Individuals shall protect the confidentiality and security of records of professional services rendered, research and scholarly activities conducted, and products dispensed. Access to these records shall be allowed only when doing so is necessary to protect the welfare of the person or of the community, is legally authorized, or is otherwise required by law.

p. Individuals shall maintain timely records and accurately record and bill for services provided and products dispensed, and shall not misrepresent services rendered, products dispensed, or research and scholarly activities conducted.

q. Individuals whose professional practice is adversely affected by substance abuse or other health-related conditions are impaired practitioners and shall seek professional assistance and, where appropriate, withdraw from the affected areas of practice.

r. Individuals who have knowledge a practitioner is unable to provide professional services with reasonable skill and safety shall report this information to the appropriate authority including the licensure board.

s. Individuals shall provide reasonable notice and information about alternatives for obtaining care in the event that the individual can no longer provide professional services.

2. Principle of Ethics II. Individuals shall honor their responsibility to achieve and maintain the highest level of professional competence and performance consistent with prevailing practice standards.

a. Individuals shall engage in only those aspects of the professions that are within the scope of their practice and competence, considering their level of licensure, registration, education, training and experience.

b. Individuals who engage in research shall comply with institutional, state, and federal regulations that address any aspects of research.

c. Individuals shall enhance and refine their professional competence and expertise through engagement in lifelong learning applicable to their professional activities and skills.

d. Individuals in administrative or supervisory roles shall not require or permit their professional staff to provide services or conduct research activities that exceed a licensee's competence, education, training, experience, and licensure status.

e. Individuals in administrative or supervisory roles shall not require or permit their professional staff to provide services or conduct clinical activities that compromise the licensee independent and objective professional judgment.

f. Individuals shall make use of technology and instrumentation consistent with accepted professional practice guidelines and shall ensure that all technology and instrumentation used to provide services or to conduct research and scholarly activities are in proper working order and are properly calibrated. When such technology is not available, an appropriate referral should be made.

3. Principle of Ethics III. Individuals shall honor their responsibility to the public when advocating for communication, swallowing, and vestibular needs of the public, and shall provide accurate information involving any aspect of the professions.

a. Individuals shall not misrepresent their credentials, competence, education, training, experience, or scholarly contributions.

b. Individuals shall avoid engaging in conflicts of interest whereby personal, financial, or other considerations have the potential to influence or compromise professional judgment and objectivity.

c. Individuals shall not misrepresent research and scholarly activities, diagnostic information, services rendered, results of services provided, products dispensed, or the effects of products dispensed.

d. Individuals shall not defraud through intent, ignorance, or negligence, or engage in any scheme to defraud in connection with obtaining payment, reimbursement, or grants and contracts for services provided, research conducted, or products dispensed.

e. Individuals' statements to the public shall provide accurate and complete information about the nature and management of communication disorders, about the professions, about professional services, about products, and about research and scholarly activities.

f. Individuals' statements to the public shall adhere to prevailing professional norms and shall not contain misrepresentations when advertising, announcing, and promoting their professional services and products or when reporting research results.

g. Individuals shall not make false statements regarding areas of professional practice, and shall complete all materials honestly and without omission.

4. Principle of Ethics IV. Individuals shall uphold the dignity and autonomy of the professions, maintain collaborative and harmonious interprofessional and intraprofessional relationships, and accept the professions' self-imposed standards.

a. Individuals shall work collaboratively, when appropriate, with members of one's own profession and members of other professions to deliver the highest quality of care.

b. Individuals shall exercise independent professional judgment in recommending and providing professional services when an administrative mandate, referral source, or prescription prevents keeping the welfare of persons served paramount.

c. Individuals' statements to colleagues about professional services, research results, and products shall adhere to prevailing professional standards and shall contain no misrepresentations.

d. Individuals shall not engage in any form of conduct that adversely reflects on the professions or on the individual's fitness to serve persons professionally.

e. Individuals shall not engage in dishonesty, negligence, fraud, deceit, or misrepresentation.

f. Applicants for licensure or registration, and individuals making disclosures shall not make false statements and shall complete all application and disclosure materials honestly and without omission.

g. Individuals shall not engage in any form of harassment, power abuse, or sexual harassment.

h. Individuals shall not engage in sexual activity with students, patients/clients, research participants, speech-language pathology assistants, aides, or licensees over whom they exercise professional authority or power.

i. Individuals shall not allow anyone under their supervision to engage in any practice that violates any provision of the practice act or Rules and Regulations including the Code of Ethics.

j. Individuals shall assign credit only to those who have contributed to a publication, presentation, protocol, process, or product. Credit shall be assigned in proportion to the contribution and only with the contributor's consent.

k. Individuals shall not engage in plagiarism and shall reference the source when using other persons' ideas, research, presentations, or products in written, oral, or any other media presentation or summary.

l. Individuals shall not discriminate in their relationships with colleagues, assistants, other support personnel, students, and members of other professions and disciplines on the basis of race, ethnicity, citizenship, sex, gender identity/gender expression, sexual orientation, age, religion, national origin, disability, culture, language, or dialect.

m. Individuals shall comply with local, state, and federal laws and regulations applicable to professional practice, research ethics, and the responsible conduct of research.

n. Individuals shall inform the board of any violations of the practice act and the Rules and Regulations including the Code of Ethics.

o. Individuals shall cooperate fully with the board on matters of professional conduct relative to the practice act and the Rules and Regulations including the Code of Ethics, and shall not make false statements of fact or withhold relevant facts necessary to fairly adjudicate complaints.

p. Individuals who have been publicly sanctioned or denied a license, registration, or a professional credential by any professional association, professional licensing authority

or board, or other professional regulatory body shall self-report by notifying the board in writing within thirty (30) days of the final action or disposition. Such written notification shall consist of a certified copy of the final action, sanction, or disposition.

q. Individuals who have been convicted, been found guilty, or entered a plea of nolo contendere to any misdemeanor involving dishonesty, physical harm or the threat of physical harm to the person or property of another, or any felony, shall self-report by notifying the board in writing within thirty (30) days of the conviction, plea, or finding of guilt. Such written notification shall consist of a certified copy of the conviction, plea, nolo contendere record, or minute/docket entry.

F. Rules of Ethics for Speech-Language Pathology Assistant and Provisional Speech-Language Pathology Assistant Licensees

1. Principle of Ethics I. Licensees shall honor their responsibility to hold paramount the welfare of persons they serve or who are participants in research and scholarly activities, provide services with honesty and compassion, and respect the rights of those served. The licensee shall take all reasonable precautions to avoid harm to the individual served.

a. Individuals shall provide clinical services and scientific activities competently, and engage only in those activities prescribed by the supervising speech-language pathologist.

b. Individuals shall not discriminate in the delivery of services or in the conduct of research and scholarly activities on the basis of race, ethnicity, citizenship, sex, gender identity/gender expression, sexual orientation, age, religion, national origin, disability, culture, language, or dialect.

c. Individuals shall not misrepresent their credentials and shall fully inform those they serve of their name, role, and credentials.

d. Individuals shall not provide services via telepractice, interpret test or assessment results, guarantee results, make referrals, discharge patients/clients, provide patient/client or family counseling, nor perform clinical tasks without the knowledge and approval of the supervising speech-language pathologist.

e. Individuals shall protect the confidentiality of clinical or personal information about persons served or participants involved in research and scholarly activities, and shall not disclose confidential information orally or in writing to anyone not designated by the supervising speech-language pathologist and without the authorization of the patient/client or their designee.

f. Individuals shall protect the confidentiality and security of records of services rendered, research and scholarly activities conducted, and products dispensed. Access to these records shall not be allowed unless directed by the supervising speech-language pathologist.

g. Individuals shall maintain timely and adequate records of services rendered, shall not charge for services not rendered, and shall not misrepresent services rendered, or research and scholarly activities conducted.

h. Individuals whose services are adversely affected by substance abuse or other health-related conditions are impaired practitioners and shall seek professional assistance

and, where appropriate, withdraw from the affected areas of practice.

i. Individuals who have knowledge that a licensee is unable to provide services with reasonable skill and safety shall report this information to the appropriate authority including the licensure board.

2. Principle of Ethics II. Individuals shall honor their responsibility to achieve and maintain the highest level of competence and performance.

a. Individuals shall engage in only those aspects of service provision that are within the scope of their practice and competence, considering their level of licensure, education, training and experience.

b. Individuals shall hold the appropriate qualifications for the area(s) in which they are providing services. Individuals shall engage in lifelong learning throughout their careers.

c. Individuals shall not provide services unless appropriately supervised.

d. Individuals shall not provide services for which the licensee has not been properly prepared.

e. Individuals shall utilize technology and instrumentation as directed by the supervising speech-language pathologist, ensuring that proper working order is maintained and calibration has been established.

3. Principle of Ethics III. Individuals shall honor their responsibility to the public by providing accurate information in all communications.

a. Individuals shall not misrepresent their credentials, competence, education, training or experience.

b. Individuals shall not participate in professional activities that constitute a conflict of interest.

c. Individuals shall not misrepresent research and scholarly activities, services rendered or any information, or engage in any scheme or maneuver to defraud in connection with obtaining payment or reimbursement for services.

d. Individuals shall not make false statements regarding areas of practice, and shall complete all materials honestly and without omission.

4. Principle of Ethics IV. Individuals shall honor their responsibilities and their relationships with colleagues and members of other professions and disciplines. Individuals shall maintain harmonious interprofessional and intraprofessional relationships and accept the standards delineated for assistants.

a. Individuals' statements to colleagues about services, research, or products shall adhere to prevailing standards and contain no misrepresentations.

b. Individuals shall not engage in dishonesty, negligence, fraud, deceit, or misrepresentation.

c. Applicants for licensure and individuals making disclosures shall not make false statements and shall complete all application and disclosure materials honestly and without omission.

d. Individuals shall not engage in any form of harassment, power abuse, or sexual harassment, or any other form of conduct that adversely reflects on service delivery or on the individual's fitness to serve persons.

e. Individuals shall not engage in sexual activity with a patient/client or research participant.

f. Individuals shall assign credit only to those who have contributed to a publication, presentation, protocol, process, or product. Credit shall be assigned in proportion to the contribution and only with the contributor's consent.

g. Individuals shall not engage in plagiarism and shall reference the source when using other persons' ideas, research, presentations, or products in written, oral, or any other media presentation or summary.

h. Individuals shall not discriminate in their relationships with colleagues and members of other professions and disciplines on the basis of race, ethnicity, citizenship, sex, gender identity/gender expression, sexual orientation, age, religion, national origin, disability, culture, language or dialect.

i. Individuals shall comply with local, state, and federal laws and regulations applicable to practice and research.

j. Individuals shall inform the board of any violations of the practice act or the Rules and Regulations including the Code of Ethics.

k. Individuals shall cooperate fully with the board on matters of professional conduct relative to the practice act or the Rules and Regulations including the Code of Ethics, and shall not make false statements of fact or withhold relevant facts necessary to fairly adjudicate complaints.

l. Individuals who have been publicly sanctioned or denied a license or a professional credential by any professional association, professional licensing authority or board, or other professional regulatory body shall self-report by notifying the board in writing within 30 days of the final action or disposition. Such written notification shall consist of a certified copy of the final action, sanction, or disposition.

m. Individuals who have been convicted, been found guilty, or entered a plea of nolo contendere to any misdemeanor involving dishonesty, physical harm or the threat of physical harm to the person or property of another, or any felony, shall self-report by notifying the board in writing within 30 days of the conviction, plea, or finding of guilt. Such written notification shall consist of a certified copy of the conviction, plea, nolo contendere record, or minute/docket entry.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2650 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Examiners for Speech-Language Pathology and Audiology, LR 17:370 (April 1991), amended LR 22:360 (May 1996), LR 30:2324 (October 2004), LR 33:2201 (October 2007), LR 37:2399 (August 2011), LR 39:1044 (April 2013), amended by the Department of Health, Board of Speech-Language Pathology and Audiology, LR 45:266 (February 2019).

Jolie Jones
Executive Director

1902#026

RULE

**Department of Health
Bureau of Health Services Financing
and
Office of Behavioral Health**

Behavioral Health Services
Substance Use Disorders Services
(LAC 50:XXXIII.14101, 14301, 14303 and 14501)

The Department of Health, Bureau of Health Services Financing and the Office of Behavioral Health have amended LAC 50:XXXIII.14101, §14301, §14303, and §14501 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq. This Rule is hereby adopted on the day of promulgation.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part XXXIII. Behavioral Health Services

Subpart 15. Substance Use Disorders Services

Chapter 141. General Provisions

§14101. Introduction

A. ...

B. The SUD services rendered shall be those services which are medically necessary to reduce the disability resulting from the illness and to restore the individual to his/her best possible level of functioning in the community.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:426 (February 2012), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Behavioral Health, LR 41:2357 (November 2015), amended by the Department of Health, Bureau of Health Services Financing and the Office of Behavioral Health, LR 44:1890 (October 2018), LR 45:270 (February 2019).

Chapter 143. Services

§14301. General Provisions

A. All SUD services must be medically necessary. The medical necessity for services shall be determined by a licensed mental health practitioner (LMHP) or physician who is acting within the scope of his/her professional license and applicable state law.

B. American Society of Addiction Medicine (ASAM) levels of care require reviews on an ongoing basis, as deemed necessary by the department to document compliance with national standards.

C. Children who are in need of SUD services should be served within the context of the family and not as an isolated unit. Services provided to children and youth shall include communication and coordination with the family and/or legal guardian and custodial agency for children in state custody provided that written consent is obtained from minor. Coordination with other child-serving systems should occur as needed to achieve the treatment goals subject to the minor’s consent and applicable privacy laws. All coordination and consent must be documented in the child’s medical record.

1. Services shall be:
 - a. delivered in a culturally and linguistically competent manner; and
 - b. respectful of the individual receiving services.
2. Services shall be appropriate to individuals of diverse racial, ethnic, religious, sexual, and gender identities, and other cultural and linguistic groups.
3. Services shall also be appropriate for:
 - a. age;
 - b. development; and
 - c. education.

D. Evidence-based practices require prior approval and fidelity reviews on an ongoing basis as determined necessary by the department.

D.1. - E. Repealed.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:426 (February 2012), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Behavioral Health, LR 41:2357 (November 2015), amended by the Department of Health, Bureau of Health Services Financing and the Office of Behavioral Health, LR 44:1890 (October 2018), LR 45:270 (February 2019).

§14303. Covered Services

A. The following SUD services shall be reimbursed under the Medicaid Program:

1. assessment;
2. outpatient treatment;
3. residential treatment; and
4. inpatient treatment.

B. Service Exclusions. The following services/components shall be excluded from Medicaid reimbursement:

1. - 2. ...
3. any services or components in which the basic nature of which are to supplant housekeeping, homemaking, or basic services for the convenience of an individual receiving services; and
4. room and board for any rates provided in a residential setting.
5. Repealed.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:426 (February 2012), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Behavioral Health, LR 41:2357 (November 2015), amended by the Department of Health, Bureau of Health Services Financing and the Office of Behavioral Health, LR 44:1891 (October 2018), LR 45:270 (February 2019).

Chapter 145. Provider Participation

§14501. Provider Responsibilities

A. - D. ...

E. Providers shall maintain case records that include, at a minimum:

1. the name of the individual;
2. the dates and time of service;
3. assessments;
4. a copy of the treatment plans, which include at a minimum:

- a. goals and objectives, which are specific, measureable, action oriented, realistic and time-limited;
 - b. specific interventions;
 - c. the service locations for each intervention;
 - d. the staff providing the intervention; and
 - e. the dates of service;
5. progress notes that include the content of each delivered service, including the reason for the contact describing the goals/objectives addressed during the service, specific intervention(s), progress made toward functional and clinical improvement;
- 6. units of services provided;
 - 7. crisis plan;
 - 8. discharge plan; and
 - 9. advanced directive.

F. Residential treatment facilities shall meet the following additional requirements:

1. Be a licensed organization, pursuant to the residential service provider qualifications described in the Louisiana Administrative Code and the Louisiana Medicaid provider manual.

2. Residential addiction treatment facilities shall be accredited by an approved accrediting body and maintain such accreditation. Denial, loss of or any negative change in accreditation status must be reported to the MCO in writing within the time limit established by the department.

3. Provide full disclosure of ownership and control, including but not limited to any relative contractual agreements, partnerships, etc.

4. Follow all residential treatment provider qualifications and program standards in licensure, Medicaid provider manual, managed care contracts or credentialing.

5. Must deliver care consistent with the specifications in the ASAM Criteria or other OBH approved, nationally recognized SUD program standards, hours of clinical care, and credentials of staff for residential treatment settings.

6. Effective April 1, 2019, must offer medication-assisted treatment (MAT) on-site or facilitate access to MAT off-site, and appropriately document MAT options, education and facilitation efforts in accordance with requirements outlined in the Medicaid provider manual.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:427 (February 2012), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Behavioral Health, LR 41:2357 (November 2015), amended by the Department of Health, Bureau of Health Services Financing and the Office of Behavioral Health, LR 44:1891 (October 2018), LR 45:270 (February 2019).

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

Rebekah E. Gee MD, MPH
Secretary

1902#037

RULE
Department of Health
Bureau of Health Services Financing
and
Office of Behavioral Health

Healthy Louisiana Opioid Use Disorder/Substance
Use Disorder Waiver
(LAC 50:XXII.Chapters 61-69)

The Department of Health, Bureau of Health Services Financing and the Office of Behavioral Health have adopted LAC 50:XXII.Chapters 61-69 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq. This Rule is hereby adopted on the day of promulgation.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part XXII. 1115 Demonstration Waivers

**Subpart 7. Healthy Louisiana Opioid Use
Disorder/Substance Use Disorder Waiver**

Chapter 61. General Provisions

§6101. Purpose

A. The Department of Health, Bureau of Health Services Financing and the Office of Behavioral Health hereby implement a section 1115(a) demonstration waiver called the Healthy Louisiana Opioid Use Disorder/Substance Use Disorder (OUD/SUD) Waiver which is designed to maintain critical access to OUD/SUD services and continue delivery system improvements for these services to provide more coordinated and comprehensive OUD/SUD treatment for Medicaid recipients. This demonstration waiver provides the state with the authority to provide high-quality, clinically appropriate OUD/SUD treatment services for residents in residential and inpatient treatment settings that qualify as an institution for mental disease (IMD).

B. The Healthy Louisiana OUD/SUD Waiver is a 59-month demonstration project which was approved by the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS) effective February 1, 2018 and will span five years, through December 31, 2022. Louisiana may request an extension of this demonstration project through CMS prior to the expiration date.

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

HISTORICAL NOTE: Promulgated by the Louisiana Department of Health, Bureau of Health Services Financing and the Office of Behavioral Health, LR 45:271 (February 2019).

Chapter 63. Eligibility

§6301. General Provisions

A. The Healthy Louisiana OUD/SUD Waiver services shall be available to individuals who:

- 1. meet the eligibility criteria for Medicaid set forth in the State Plan;
- 2. meet clinical criteria, including having a SUD diagnosis; and

3. receive OUD/SUD treatment services in residential and inpatient treatment settings that qualify as an IMD, which are not otherwise matchable expenditures under §1903 of the Social Security Act.

B. Retroactive coverage is not available in the Healthy Louisiana OUD/SUD Waiver program.

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

HISTORICAL NOTE: Promulgated by the Louisiana Department of Health, Bureau of Health Services Financing and the Office of Behavioral Health, LR 45:271 (February 2019).

Chapter 65. Services

§6501. Covered Services

A. The coverage of OUD/SUD residential treatment and withdrawal management services during residential stays under the scope of this demonstration project are:

1. inpatient services provided to recipients in IMDs;
2. residential treatment provided to recipients in IMDs;
3. clinically managed withdrawal management provided to recipients in IMDs;
4. medically monitored/managed withdrawal management provided to recipients in IMDs; and
5. medication-assisted treatment (MAT) provided to recipients in IMDs.

B. A licensed mental health practitioner (LMHP) or physician who is acting within the scope of his/her professional license and applicable state law shall determine the medical necessity of all OUD/SUD services furnished under this waiver.

1. For the purposes of this Chapter, the term medically necessary means that the services provided under this waiver are reasonably calculated by an LMHP or a physician:

- a. to reduce the disability resulting from the illness; and
- b. to restore the recipient to his/her best possible functioning level in the community.

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

HISTORICAL NOTE: Promulgated by the Louisiana Department of Health, Bureau of Health Services Financing and the Office of Behavioral Health, LR 45:272 (February 2019).

§6503. Service Delivery

A. All Healthy Louisiana OUD/SUD Waiver services are to be provided to recipient groups through a managed care delivery system, except for the following:

1. spend-down medically needy population.

B. All of the covered services under this waiver shall be delivered by an IMD provider contracted with one or more of the managed care organizations (MCOs) operating within the state's Medicaid system.

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

HISTORICAL NOTE: Promulgated by the Louisiana Department of Health, Bureau of Health Services Financing and the Office of Behavioral Health, LR 45:272 (February 2019).

Chapter 67. Provider Participation

§6701. General Provisions

A. All providers participating in the delivery of services covered under the Healthy Louisiana OUD/SUD Waiver shall adhere to all of the applicable federal and state regulations, policies, rules, manuals and laws.

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

HISTORICAL NOTE: Promulgated by the Louisiana Department of Health, Bureau of Health Services Financing and the Office of Behavioral Health, LR 45:272 (February 2019).

§6703. Reporting Requirements

A. MCOs and their contracted providers of OUD/SUD services under this demonstration project shall be required to provide data as outlined or requested by the Department of Health.

B. Data shall be provided in the format and frequency specified by the department including any additional data requests as identified by the department.

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

HISTORICAL NOTE: Promulgated by the Louisiana Department of Health, Bureau of Health Services Financing and the Office of Behavioral Health, LR 45:272 (February 2019).

Chapter 69. Reimbursement

§6901. General Provisions

A. MCOs and their contracted IMD providers shall ensure that reimbursement for services covered under the Healthy Louisiana OUD/SUD Waiver is requested and paid only for those recipients who meet the eligibility criteria and for whom services were rendered:

1. providers/IMDs shall retain any and all supporting financial information and documents that are adequate to ensure that payment is made in accordance with applicable federal and state laws;

2. any such documents shall be retained for a period of at least six years from the date of service, or until the final resolution of all litigation, claims, financial management reviews or audits pertaining, whichever is the longest time period; and

3. there shall not be any restrictions on the right of the state and federal government to conduct inspections and/or audits as deemed necessary to assure quality, appropriateness or timeliness of services and reasonableness of costs.

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

HISTORICAL NOTE: Promulgated by the Louisiana Department of Health, Bureau of Health Services Financing and the Office of Behavioral Health, LR 45:272 (February 2019).

§6903. Reimbursement Methodology

A. For recipients enrolled in one of the MCOs, the department or its fiscal intermediary shall make monthly capitation payments to the MCOs inclusive of coverage for the provision of residential and inpatient substance use services for recipients. The capitation rates paid to the MCOs shall be actuarially sound rates and the MCOs will determine the rates paid to its contracted providers. No payment shall be less than the minimum Medicaid rate.

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

HISTORICAL NOTE: Promulgated by the Louisiana Department of Health, Bureau of Health Services Financing and the Office of Behavioral Health, LR 45:272 (February 2019).

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

Rebekah E. Gee MD, MPH
Secretary

1902#038

RULE

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

Intermediate Care Facilities for Individuals with
Intellectual Disabilities—Public Facilities
Transitional Rate Extension
(LAC 50:VII.32915 and 32969)

The Department of Health, Bureau of Health Services Financing has amended LAC 50:VII.32915 and §32969 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq. This Rule is hereby adopted on the day of promulgation.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part VII. Long Term Care

Subpart 3. Intermediate Care Facilities for Individuals with Intellectual Disabilities

Chapter 329. Reimbursement Methodology

§Subchapter A. Non-State Facilities

§32915. Complex Care Reimbursements

A. Private (non-state) intermediate care facilities for individuals with intellectual disabilities (ICFs/IID) may receive an add-on payment to the per diem rate for providing complex care to Medicaid recipients who require such services. The add-on rate adjustment shall be a flat fee amount and may consist of payment for any one of the following components:

1. - 7. ...

B. Private (non-state) owned ICFs/IID may qualify for an add-on rate for recipients meeting documented major medical or behavioral complex care criteria. This must be documented on the complex support need screening tool provided by the department. All medical documentation indicated by the screening tool form and any additional documentation requested by the department must be provided to qualify for the add-on payment.

C. - I.3.e. ...

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 42:276 (February 2016), amended by the Department of Health, Bureau of Health Services Financing, LR 44: 1447 (August 2018), LR 45:273 (February 2019).

Subchapter C. Public Facilities

§32969. Transitional Rates for Public Facilities

A. - B. ...

1. The department may extend the period of transition up to September 30, 2020, if deemed necessary, for an active CEA facility that is:

B.1.a. - G. ...

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 39:326 (February 2013), amended LR 40:2588 (December 2014), amended by the Department of Health, Bureau of Health Services

Financing, LR 44:60 (January 2018), LR 44:772 (April 2018), LR 45:273 (February 2019).

Rebekah E. Gee MD, MPH
Secretary

1902#039

RULE

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

Managed Care Organization Payment Accountability
and Provider Credentialing
(LAC 50.I.1505)

The Department of Health, Bureau of Health Services Financing has adopted LAC 50:I.1505 in the Medical Assistance Program as authorized by R.S. 36:254 and R.S. 46:460.73.A and pursuant to Title XIX of the Social Security Act. This Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq. This Rule is hereby adopted on the day of promulgation.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part I. Administration

Subpart 1. General Provisions

Chapter 15. Provider Screening and Enrollment

§1505. Managed Care Organization Payment

Accountability and Provider Credentialing

A. In compliance with the requirements of Act 489 of the 2018 Regular Session of the Louisiana Legislature, the Department of Health adopts the following payment accountability and provider credentialing requirements for managed care organizations (MCOs) participating in the Medical Assistance Program.

1. Managed care organizations shall ensure that contracted or enrolled providers have met and continue to meet Medicaid provider enrollment, credentialing and accreditation requirements and other applicable state or federal requirements in order to receive reimbursement for services provided to Medicaid recipients.

2. Managed care organizations that fail to ensure proper compliance with Medicaid provider enrollment, credentialing or accreditation requirements shall be liable for reimbursement to providers for services rendered to Medicaid recipients, until such time as the deficiency is identified by the MCO and notice is issued to the provider pursuant to R.S. 46:460.72.

3. Managed care organizations shall withhold reimbursement for services provided during the 15 day remedy period after notice of the deficiency is identified by the MCO, or during a longer period if allowed by LDH, if the provider elects to continue rendering services while the deficiency is under review.

a. If the deficiency is remedied, the MCO shall remit payment to the provider.

b. If the deficiency is not remedied, nothing in this Section shall be construed to preclude the MCO from recouping funds from the provider for any period in which

the provider was not properly enrolled, credentialed or accredited.

c. If the deficiency cannot be remedied within 15 days, the provider may seek review by the department if he/she believes the deficiency was caused by good faith reliance on misinformation by the MCO and asserts that he/she acted without fault or fraudulent intent, there is no deficiency, or because of reliance on misinformation from the MCO, an exception should be made to allow reasonable time to come into compliance so as to not disrupt patient care.

i. After the initial notification of deficiency, the provider shall notify the department of his/her intent to appeal the decision within 10 calendar days of receipt of the MCO's notification, and provide a detailed request for departmental review with supporting documents within 15 calendar days of receipt of the MCO's notification.

(a). The provider shall prove absence of fault or fraudulent intent by producing guidance, applications or other written communication from the MCO that bears incorrect information, including whether the misinformation or guidance was contradictory to applicable Medicaid manuals, rules, or policies.

ii. The department shall review all materials and information submitted by the provider and shall review any information necessary that is in the custody of the MCO to render a written decision within 30 days of the date of receipt for review submitted by the provider.

(a). If the department's decision is in favor of the provider, a written decision shall be sent to the provider and the MCO via certified mail and the provider shall be afforded reasonable time to remedy the deficiency caused by the misinformation of the MCO. During this time, the provider shall be allowed to provide services and submit claims for reimbursement.

(i). The MCO shall be responsible for payment to the provider and may be subject to penalties by the department in accordance with contract provisions, or rules and regulations promulgated pursuant to the Administrative Procedure Act.

(b). If the department's decision is in favor of the MCO, the provider's contract shall be terminated immediately, pursuant to the notice provided for in R.S. 46:460.72(C).

(c). If the department's decision is that the provider acted with fault or fraudulent intent, the provisions of R.S. 46:460.73(B) shall apply.

(d). The written decision by the department is the final administrative decision and no appeal or judicial review shall lie from this final administrative decision.

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

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 45:273 (February 2019).

Implementation of the provisions of this Rule may be contingent upon the approval of the U.S. Department of Health and Human Services, Centers for Medicare and

Medicaid Services (CMS), if it is determined that the submission to CMS for review and approval is required.

Rebekah E. Gee MD, MPH
Secretary

1902#040

RULE

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

**Nursing Facilities—Reimbursement Methodology
Case-Mix Documentation Reviews and Index Reports
(LAC 50:II.20013)**

The Department of has amended LAC 50:II.20013 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq. This Rule is hereby adopted on the day of promulgation.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part II. Nursing Facilities

Subpart 5. Reimbursement

Chapter 200. Reimbursement Methodology

§20013. Case-Mix Documentation Reviews and Case-Mix Index Reports [Formerly LAC 50:VII.1313]

A. - B.4. ...

5. The following corrective action will apply to those nursing facility providers with unsupported MDS resident assessments identified during an on-site CMDR.

a. If the percentage of unsupported assessments in the initial on-site CMDR sample is greater than 20 percent, the sample shall be expanded, and shall include the greater of 20 percent of the remaining resident assessments or 10 assessments.

b. - e. ...

Effective Date (A)	Threshold Percent (B)
January 1, 2003	Educational
January 1, 2004	40%
January 1, 2005	35%
January 1, 2006	25%
February 20, 2019 and beyond	20%

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 28:2537 (December 2002), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:826 (March 2012), amended by the Department of Health, Bureau of Health Services Financing, LR 43:528 (March 2017), LR 45:274 (February 2019).

Implementation of the provisions of this Rule may be contingent upon the approval of the U.S. Department of Health and Human Services, Centers for Medicare and

Medicaid Services (CMS), if it is determined that submission to CMS for review and approval is required.

Rebekah E. Gee MD, MPH
Secretary

1902#041

RULE

Department of Health Bureau of Health Services Financing

Nursing Facilities—Reimbursement Methodology
Transition of Private Facilities to State-Owned or
Operated Facilities Through Change of Ownership
(LAC 50:II.20023 and 20024)

The Department of Health, Bureau of Health Services Financing has amended LAC 50:II.20023 and adopted LAC 50:II.20024 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R. S. 49:950 et seq. This Rule is hereby adopted on the day of promulgation.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part II. Nursing Facilities

Subpart 5. Reimbursement

Chapter 200. Reimbursement Methodology

§20023. Transition of State-Owned or Operated Nursing Facility to a Private Facility

A. - D.7. ...

E. Repealed.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 37:903 (March 2011), amended by the Department of Health, Bureau of Health Services Financing, LR 45:275 (February 2019).

§20024. Transition of Private Nursing Facility to a State-Owned or Operated Nursing Facility through a Change of Ownership

A. Any private nursing facility that undergoes a change of ownership (CHOW) to a state-owned or operated nursing facility will be exempt from the prospective reimbursement system for public nursing facilities during the transitional period.

1. The transitional period will be effective from the date of the CHOW until the July 1 rate setting period following when the state-owned or operated nursing facility has an audited or reviewed 12 month or greater cost reporting period available for use in rate setting.

2. After the transitional period, the nursing facility will be reimbursed pursuant to the requirements of the prospective reimbursement system for public nursing facilities.

B. Effective for dates of service on or after July 5, 2018, the reimbursement amount paid to a public nursing facility during the transitional period shall be as follows:

1. Public nursing facilities transitioning from private ownership shall receive a monthly interim payment based on occupancy, which shall be a per diem rate of \$365.68.

2. For each cost reporting period ending during the transitional period a cost settlement process shall be performed. The cost settlement process shall ensure that Medicaid reimbursement for each public nursing facility transitioning from private ownership is equal to 100 percent of the nursing facility's Medicaid allowable cost for the applicable cost reporting period.

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

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 45:275 (February 2019).

Rebekah E. Gee MD, MPH
Secretary

1902#042

RULE

Department of Health Licensed Professional Counselors Board of Examiners

Criminal History Records
(LAC 46:LX.Chapter 4)

In accordance with the applicable provisions of the Louisiana Administrative Procedures Act (R.S.49:950 et seq.) and through the authority of the Mental Health Counselor Licensing Act (R.S. 37:1101 et seq.), the Louisiana Licensed Professional Counselors Board of Examiners sets rules for Criminal History Records Information criteria in accordance with R.S. 37:1123.

The Louisiana Licensed Professional Counselors Board of Examiners hereby adopts rules for publication in the February 20, 2019 edition of the *Louisiana Register*. This Rule is hereby adopted on the day of promulgation.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS REVISED

Part LX. Licensed Professional Counselors Board of Examiners

Subpart 1. Licensed Professional Counselors

Chapter 4. Criminal History Records

§401. Scope of Chapter

A. This Chapter governs the submission, retention, and use of criminal history records information in connection with applications for the initial license, renewal, or reinstatement of a license of PLPCs and LPCs license in conformity with R.S. 37:2372.1 and R.S. 37:1101-1123.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1101-1123.

HISTORICAL NOTE: Promulgated by the Department of Health, Licensed Professional Counselors Board of Examiners, LR 45:275 (February 2019).

§403. Criminal History Record Information

A. The submission and use of criminal history records information with applications for an initial and reinstatement of licensee shall begin January 1, 2019 and renewals shall begin January 1, 2020. In the renewal of licensure, a random sample of licensees shall be required to submit a criminal history record information with fingerprints.

B. The board shall utilize criminal history record information to determine an applicant's suitability and

eligibility for licensure, and whether just cause exists for the board to refuse to issue, suspend, revoke, or impose probationary or other terms, conditions, or restrictions on any license held or applied for by an application for violation of any of these causes specified by R.S. 37:1123 and the board's rules.

1. All applicants must submit a full set of fingerprints, and criminal history record information to the board from the Louisiana State Police Bureau of Criminal Identification and Information.

2. Fingerprints, and criminal history record information shall be submitted with application on board-approved forms.

3. Criminal history record information shall require all applicants to report whether he or she has been convicted of sex crimes and is registered with any state sex offender and child predator registry as required by Louisiana State Statute.

4. Any applicant that does not include the applicant's fingerprints, and criminal history record information, and disclosure/ registry of conviction of sex crime shall be deemed incomplete and shall not be considered by the board unless and until such requirements have been satisfied.

C. The submission of an application for licensure to the board shall constitute acknowledgment and consent by the applicant to:

1. any state or federal agency, including, but not limited to, the bureau and the FBI, to disclose and release to the board any and all state, national, or foreign criminal history record information and sex crime conviction and registry;

2. disclosure and release of such information to the board constitutes a waiver by the applicant of any privilege or right of confidentiality;

3. allow the board to utilize criminal history record information to determine the applicant's suitability and eligibility for licensure to include but not limited to:

- a. refuse to issue;
- b. suspend;
- c. revoke;
- d. impose probationary; or
- e. other terms, conditions, or restrictions on any license held or applied for by an applicant.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1101-1123.

HISTORICAL NOTE: Promulgated by the Department of Health, Licensed Professional Counselors Board of Examiners, LR 45:275 (February 2019).

§405. Confidentiality of Criminal History Record Information

A. Criminal history record information obtained by the board which is not already a matter of public record or to which the privilege of confidentiality has not otherwise been waived or abandoned, shall be deemed nonpublic and confidential information, restricted to and utilized exclusively by the board, its officers, members, investigators, employees, agents, and attorneys in evaluating applicant's eligibility or disqualification for licensure.

B. Criminal history record information shall not, except with the written consent of the applicant or by the order of a court, be released or otherwise disclosed by the board. However, that any such information or documents which are admitted into evidence and made part of the administrative record in any adjudicatory proceeding before the board 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. 37:1101-1123.

HISTORICAL NOTE: Promulgated by the Department of Health, Licensed Professional Counselors Board of Examiners, LR 45:276 (February 2019).

§407. Exceptions to Criminal History Information Requirement

A. The criminal history information requirements prescribed by the board shall not be applicable to licensed professional counselor or licensed marriage family therapist applicants seeking a temporary registration.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1101-1123.

HISTORICAL NOTE: Promulgated by the Department of Health, Licensed Professional Counselors Board of Examiners, LR 45:276 (February 2019).

§409. Falsification of Criminal Record Information

A. An applicant who denies the existence or extent of criminal history record information on an application shall be deemed to have provided false, misleading, and/or deceptive information on an application for licensure, and to have engaged in unprofessional conduct, providing cause for the board to disqualify, suspend or revoke licensure.

B. Falsification of criminal record information may result in a formal hearing before the board in accordance with Chapter 13.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1101-1123.

HISTORICAL NOTE: Promulgated by the Department of Health, Licensed Professional Counselors Board of Examiners, LR 45:276 (February 2019).

Jamie S. Doming
Executive Director

1902#018

RULE

Department of Health Licensed Professional Counselors Board of Examiners

Provisional Licensed Professional Counselor
Licensure Requirements (LAC 46:LX.603 and 605)

In accordance with the applicable provisions of the Louisiana Administrative Procedures Act (R.S.49:950 et seq.) and through the authority of the Mental Health Counselor Licensing Act (R.S. 37:1101 et seq.), the Louisiana Licensed Professional Counselors Board of Examiners clarifies PLPC licensure requirements to meet CACREP standards.

The Louisiana Licensed Professional Counselors Board of Examiners hereby amends rules for publication in the February 20, 2019 edition of the *Louisiana Register*. This Rule is hereby adopted on the day of promulgation.

Title 46

**PROFESSIONAL AND OCCUPATIONAL
STANDARDS REVISED**

**Part LX. Licensed Professional Counselors Board of
Examiners**

Subpart 1. Licensed Professional Counselors

**Chapter 6. Application, Practice and Renewal
Requirements for Provisional Licensed
Professional Counselors**

**§603. Provisional Licensed Professional Counselors
Licensing Requirements**

A. - A.3. ...

4. has received a graduate degree, the substance of which is professional mental health counseling in content from a regionally-accredited institution of higher education offering a master's and/or doctoral program in counseling that is approved by the board and has accumulated at least 60 graduate credit hours as part of the graduate degree plan containing the eight required areas, the supervised mental health practicum and supervised internship in mental health counseling or the total equivalent hours in practicum and internship. Applicants may apply post-masters counseling courses towards licensure if their degree program consisted of less than 60 hours. All graduate and post-masters counseling courses must be completed with a grade no lower than C. All field experience courses must be completed with a grade of A, B, or P.

a. to be eligible for supervision as a provisional licensed professional counselor, the applicant must provide proof of completion of a supervised practicum and internship as listed below in item b. and at least one three-credit hour course in each of the following eight content areas. In order for a course to fulfill a content area requirement, it must include in a substantial manner the area in the description for the content areas;

i.-viii.(g). ...

b. Mental Health Counseling Practicum and/or Internship

i. Mental Health Counseling Practicum. Licensure requires the completion of a mental health counseling/psychotherapy practicum totaling 100 clock hours. The practicum includes:

(a). a minimum of 40 hours of direct counseling/psychotherapy with individuals or groups;

(b). a minimum of one hour per week of individual supervision by a counseling faculty member supervisor or supervisor working under the supervision of a program faculty member;

(c). a minimum of one and a half hours per week of group supervision with other students in similar practica or internships by a program faculty member supervisor or a student supervisor working under the supervision of a program faculty member or an approved on-site supervisor.

ii. Mental Health Counseling Internship. Licensure requires the completion of a mental health counseling/psychotherapy internship totaling 600 clock hours. The internship includes:

(a). a minimum of 240 hours of direct counseling/psychotherapy with individuals or groups;

(b). a minimum of one hour per week of individual supervision by a counseling faculty member supervisor or an approved on-site supervisor that meets the supervisor requirements of the university.

(c). a minimum of 1.5 hours per week of group supervision with other students in similar practica or internships by a program faculty member supervisor or a student supervisor working under the supervision of a program faculty member or an approved on-site supervisor.

5. - 6.d. ...

e. the professional practice setting cannot include any practice setting in which the provisional licensed professional counselor operates, manages, or has an ownership interest (e.g., private practice, for-profit, non-profit, etc.); the supervisee may receive a wage for services provided;

f. the agency or employer may bill for services provided by the PLPC. The PLPC may not bill directly for services provided to clients and the PLPC may not bill under another person's name;

g. the licensee must be supervised by an administrative supervisor (in addition to receiving active, board-approved supervision) in order to volunteer counseling services or receive a wage for services rendered as an employee or private contractor. The control, oversight, and professional responsibility for provisional licensed professional counselors rests with the licensee's administrative supervisor in the setting in which they are employed, contracted or volunteering;

h. provisional licensed professional counselors must notify their administrative supervisor of the identity of their board-approved supervisor and the nature of the supervisory activities, including any observations or taping that occurs with clients, after obtaining the client's permission, in the setting;

i. a licensed mental health professional (e.g. LPC, LMFT, LCSW) must be employed in the professional setting in which the provisional licensed professional counselor is rendering counseling services and be available for case consultation and processing. The provisional licensed professional counselor must have obtained the administrative supervisor's approval of the licensed mental health professional prior to submitting the practice setting for board review. The licensed mental health professional may be the board-approved supervisor or the administrative supervisor if he/she meets each of the aforementioned requirements;

j. supervised experience accrued by the provisional licensed professional counselor in an exempt setting needs to meet the requirements in this rule if that supervised experience is to meet the requirements for licensure as set forth by R.S. 37:1107(A);

7. has provided to the board a declaration of practices and procedures, with the content being subject to board review and approval;

8. has received a letter from the board certifying that all the requirements for provisional licensed professional counselor, as defined in this Chapter, were met before accruing supervised experience hours.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1101-1123.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 41:712 (April 2015), amended by the Department of Health, Licensed Professional Counselors Board of Examiners LR 45:277 (February 2019).

§605. Supervised Practice Requirements

A. PLPC Supervision Requirements

1. This shall define and establish the minimum standards for supervised practice of PLPCs. *Supervision* is defined as a process in which the PLPC, engages in a collaborative relationship with a LPC Supervisor. The goal of supervision is to enhance and evaluate the PLPC's professional competence, monitor the quality of services provided, maintain the ethical standards of practice, protect the welfare of the public and providing a gatekeeping function for entry into the mental health profession.

2. Pursuant to R.S. 37:1107(A), a supervisee must document a minimum of 3,000 hours of post-master's experience in professional mental health counseling under the clinical supervision of a board-approved supervisor, with said supervision occurring over a period of no less than two years and not more than six years from the original date such supervision was approved. A supervisee must remain under supervision of a board-approved supervisor until receiving written notification of approval for licensure.

a.i. Based on the above, the required 3,000 hours of counseling/psychotherapeutic experience shall be accrued in the following manner.

(a). Direct Hours. A minimum of 1,900 hours in direct counseling/psychotherapeutic services involving individuals, couples, families, or groups:

(i). an applicant may utilize supervised direct hours earned in post-master's degree practicum and internship courses in counseling (from a regionally accredited university) toward the required 1900 hours of direct counseling/psychotherapeutic services. In order to be counted, the direct hours earned in practicum and internship courses must have occurred after the applicant has been approved for provisional licensure and is under the supervision of the applicant's board-approved supervisor. An applicant may not count hours spent supervising others (i.e., supervision courses, doctoral students supervising master's level students) as direct hours.

(b). Indirect Hours. A minimum of 1,000 indirect hours in counseling-related activities (i.e., client contact, case notes, staffing, case consultation, or testing/assessment of clients) or education at the graduate level in the field of mental health counseling as defined in R.S. 37:1101-1123:

(i). five hundred indirect hours of supervised experience may be gained for each 30 graduate semester hours earned beyond the required master's degree provided that such hours are clearly related to the field of mental health counseling, are earned from a regionally accredited institution, and are acceptable to the board. Practicum and internship courses may not be included in the 30 graduate semester hours that are used to substitute for 500 hours of supervised experience if they are used to count toward an applicant's direct hours.

(c). Supervision Hours. A minimum of 100 hours of face-to-face supervision by a LPC Supervisor. Up to 25

percent of the supervision hours may be conducted by synchronous videoconferencing:

(i). supervision may not take place via mail, email, or telephone. Telephone, mail, or email contacts with supervisor may be counted under Subclause A.2.a.i.(b) of this Section (i.e., consultation), however, it cannot be counted as face to face supervision as defined in Subclause A.2.a.i.(c) of this Section.

ii. Acceptable modes for supervision of direct clinical contact are the following.

(a). Individual Supervision. The supervisory session is conducted by the LPC Supervisor with one PLPC present.

(b). Group Supervision. The supervisory session is conducted by the supervisor(s) with 2 and no more than 10 PLPCs present.

iii. Supervision hours include individual and/or group supervision as described below.

(a). A minimum of 50 of these 100 hours must be individual supervision.

(b). The remaining hours may be either individual supervision or group supervision.

3. Supervised experience hours for PLPC and PLMFT may be accrued concurrently, after receiving notification of approval from the board certifying that all the requirements for both provisional licensed professional counselor and the provisional licensed marriage and family therapist have been met. If approval was not obtained on the same date for each provisional license, then concurrent accrual of hours cannot begin until the second provisional license has been approved. Retroactive supervision experience hours are not permitted.

4. Current PLPCs are required to remain under active supervision as defined in Chapter 5 until fully licensed.

B. Responsibility of Supervisee under Board-Approved Supervision

1. During the period of supervised counseling/psychotherapy experience, the only proper identification title is provisional licensed professional counselor or PLPC. Provisional licensed professional counselors shall not identify or represent themselves by any other term or title, including "licensed", "fully licensed", "licensed professional counselor", "LPC", or "counselor".

2. Each provisional licensed professional counselor must provide his/her clients with a disclosure statement (as outlined in the appendix of the code of conduct) that includes:

- a. his/her training status; and
- b. the name of his/her supervisor for licensure purposes.

3. Provisional licensed professional counselors must comply with all laws and regulations relating to the practice of mental health counseling (R.S. 37:1101-1123).

4. The provisional licensed professional counselor must maintain contact with his/her board-approved supervisor to ensure that active supervision requirements (as defined in Chapter 5 of this Part) are met.

5. Provide updates to the board and board-approved supervisor regarding changes in status on forms provided by the board within 30 days of said change. Failure to comply may result in a fine, loss of supervised experience hours,

and/or disciplinary action. Changes in status include changes in:

- a. relevant personal information, including contact information, physical address, name;
- b. relevant practice setting information, including job title/duties, employment status;
- c. status with the justice system, including notification of arrest, charges, convictions;
- d. status with another licensure/credentialing body, including notification of suspension, revocation, or other disciplinary proceedings/actions;
- e. the use of any narcotics, controlled substances, or any alcoholic beverages in a manner that is dangerous to the public or in a manner that impairs the supervisee’s ability to provide mental health services to the public;
- f. any medical condition which may in any way impair or limit the supervisee’s ability to provide mental health services to the public with reasonable skill or safety.

6. The supervisee must maintain documentation of all supervised experience hours by employment location and type of hour (indirect, direct, and face to face supervision). It is recommended that a supervisee obtain the signature of the board-approved supervisor indicating review and approval of documentation at regular intervals.

7. The supervisee must renew his/her provisional license in accordance with §611 of this Chapter and maintain a valid provisional license in order to practice mental health counseling.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1101-1123.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 41:715 (April 2015), amended by the Department of Health, Licensed Professional Counselors Board of Examiners LR 45:278 (February 2019).

Jamie S. Doming
Executive Director

1902#017

RULE

**Department of Insurance
Office of the Commissioner**

**Regulation 46—Long-Term Care Insurance
Policy Definition (LAC 37:XIII.Chapter 19)**

The Department of Insurance, pursuant to the authority of the Louisiana Insurance Code, R.S. 22:1 et seq., and in accordance with the Administrative Procedure Act, R.S. 49:950, et seq., has amended LAC 37:XIII.1907.

The purpose of LAC 37:XIII.1901 et seq. (Regulation 46—Long-Term Care Insurance) is to implement the long-term care insurance provisions of the Louisiana Insurance Code, R.S. 22:1181-1191. In July 2017, the Department of Insurance amended LAC 37:XIII.1901 et seq. to adopt changes made to date to the National Association of Insurance Commissioners’ long-term care insurance model regulation, to adopt model regulation definitions, to make necessary technical amendments and redesignations to

existing sections of LAC 37:XIII.1901 et seq. to accommodate the model regulation, and to make other technical amendments.

As published in July 2017, LAC 37:XIII.1907, as amended, contains a duplicate definition. The amendments intended to change the name of the definition for “Skilled Nursing Care, Intermediate Care, Personal Care, Home Care and Other Services” to “Skilled Nursing Care, Personal Care, Home Care, Specialized Care, Assisted Living Care, and Other Services”. This change in the definition name reflected a change in terms used throughout the amended regulation. The amended regulation, as published, included the same definition twice: one with the amended name and one with the former name. LAC 37:XIII.1907 has been amended to delete the duplicated definition with the former and now obsolete definition name. This Rule is hereby adopted on the day of promulgation.

Title 37

INSURANCE

Part XIII. Regulations

Chapter 19. Regulation 46—Long-Term Care Insurance

§1907. Policy Definitions

A. ...

* * *

Skilled Nursing Care, Intermediate Care, Personal Care, Home Care and Other Services—Repealed.

* * *

B. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:1186(A), 22:1186(E), 22:1188(C), 22:1189, and 22:1190.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 19:1153 (September 1993), amended LR 23:976 (August 1997, LR 43:1394 (July 2017) (effective January 1, 2018), amended LR 45:279 (February 2019).

James J. Donelon
Commissioner

1902#011

RULE

**Department of Public Safety and Corrections
Office of Motor Vehicles**

**Hang Tags for Mobility Impaired Individuals
(LAC 55:III.Chapter 21)**

Under the authority of R.S. 47:463.4, in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Public Safety and Corrections, Public Safety Services, Office of Motor Vehicles (department), hereby adopts rules regarding Hang Tags for Mobility Impaired Individuals. This Chapter is new and implements the provisions of Act 240 of the 2018 Regular Session of the Louisiana Legislature which provide for the length of time a permanent hang tag is valid. This Rule is hereby adopted on the day of promulgation.

Title 55

PUBLIC SAFETY

Part III. Motor Vehicles

**Chapter 21. Hang Tags for Mobility Impaired
Individuals**

§2101. Definitions

A. As used in this Chapter, the following terms have the meanings described below.

Medical Examiner—a person licensed to practice medicine in Louisiana or any other state or territory of the United States, a person licensed to practice chiropractic by the Louisiana State Board of Chiropractic Examiners, a person licensed by the Louisiana State Board of Physical Therapy Examiners, or advanced practice registered nurses.

Mobility Impaired—the individuals who come under statutory definition of a mobility impaired person or a veteran who has a 50 percent or more service connected disability are eligible for the mobility impaired hang tag.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:463.4.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of Motor Vehicles, LR 45:280 (February 2019).

**§2103. Application for Hang Tags
(Visiting a Field Office)**

A.1. First time applicants applying for a hang tag for mobility impairment must include:

a. a currently dated medical examiner's certification of mobility impairment form (DPSMV 1966). A *medical examiner* is defined as:

i. a person licensed to practice medicine in Louisiana or any other state or territory of the United States;

ii. a person licensed to practice chiropractic by the Louisiana State Board of Chiropractic Examiners;

iii. a person licensed by the Louisiana State Board of Physical Therapy Examiners, or an advanced practice registered nurse;

b. in the case of a disabled veteran, a decision letter or an affidavit from the Veterans Affairs Office attesting to the veteran's disability. A veteran who currently has a disabled veteran's license plate is not required to submit a separate medical examiner's certificate of mobility impairment. He is eligible to receive a "permanent" hang tag at no charge at initial issuance.

2. The certification must indicate the type of impairment as follows.

a. Permanently Impaired. Certification must state the physical condition which qualifies the applicant for a hang tag is a permanent condition. A mobility impaired hang tag will be issued with a 10 year expiration date. Re-certification will not be required upon renewal.

b. Temporarily Impaired. Certification must state the physical condition which qualifies the applicant for a hang tag is temporary (one year or less). A mobility impaired hang tag will be issued with a one year expiration date. If the temporary mobility impairment persists past a year from the date of issuance, an additional certification must be submitted upon renewal of temporary hang tag.

3. Up to three additional hang tags may be issued on behalf of a person with a mobility impairment. Only one fee (\$3 for temporarily impaired hang tag and \$7.50 for a permanently impaired hang tag) will be assessed. Only one mobility impaired ID card will be issued.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:463.4.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of Motor Vehicles, LR 45:280 (February 2019).

§2105. Proper Display of a Hang Tag

A. The hang tags are designed to be hung from the vehicle's front windshield rear view mirror. When there is no rear view mirror, the hang tag may be displayed on the vehicle's dashboard.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:463.4.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of Motor Vehicles, LR 45:280 (February 2019).

**§2107. Application for Hang Tags
(Applicant is Unable to Visit a Field Office)**

A. First time applicants:

1. a currently dated medical examiner's certification form or, in the case of a disabled veteran, proof of a special disabled veteran license plate, a decision letter or an affidavit from the Office of Veteran Affairs and a separate medical examiner's certification which indicates the applicant is unable appear in person at the Office of Motor Vehicles;

2. a color photograph of the applicant.

B. Renewal applicants:

1. if the applicant has a permanent status—mobility ID and expired hang tag;

2. if the applicant has a temporary status—a currently dated examiner's certification of mobility impairment form (DPSMV 1966) or, in the case of a disabled veteran, a decision letter or an affidavit from the Office of Veteran Affairs and a separate medical examiner's statement indicating the applicant is unable to appear in person at the Office of Motor Vehicles;

3. a color photograph of the applicant.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:463.4.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of Motor Vehicles, LR 45:280 (February 2019).

**§2109. Denial, Revocation or Cancellation of Hang Tags
or Mobility Impaired Identification Card**

A. The department may deny, cancel or revoke a hang tag or mobility impaired identification card for any of the following reasons.

1. The applicant made a misstatement of fact in his/her application for a hang tag or mobility impaired identification card, or the applicant omitted a material fact from his application for a hang tag or mobility impaired identification card.

2. The applicant intentionally furnished false information to the department in connection with his application for hang tag or mobility impaired identification card.

3. The individual has been found to be in possession of a fictitious hang tag or mobility impaired identification card, or a hang tag or mobility impaired identification card which has been altered or caused to be altered by the individual.

4. Any personal information of the individual that appears on the face of the hang tag or mobility impaired identification card has changed, and more than 60 days has elapsed since the information has changed.

5. The department receives information that the individual is no longer a resident of the state of Louisiana.

6. The individual to whom the hang tag or mobility impaired identification card was issued has allowed another individual to use his/her hang tag or mobility impaired identification card for purposes of identification or in the furtherance of the commission of fraud.

7. The individual is convicted of any criminal offense in which fraud, theft, or unauthorized use are elements of the offense, and the individual used the hang tag or mobility impaired identification card in the commission of the offense.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:463.4.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of Motor Vehicles, LR 45:280 (February 2019).

Lt. Col. Jason Starnes
Chief Administrative Officer

1902#055

RULE

Department of Public Safety and Corrections Office of State Police

Explosives Code (LAC 55:I.Chapter 15)

The Department of Public Safety and Corrections, Office of State Police, in accordance with R.S. 49:950 et seq., Act 315 of the 2018 Regular Session, and R.S. 40:1472.1 et seq., has amended rules which address the new age limit for blasters and handlers, and specify the amount of explosives that may be stored in magazines located inside buildings. This Rule is hereby adopted on the day of promulgation.

Title 55

PUBLIC SAFETY

Part I. State Police

Chapter 15 Explosives Code

Subchapter A. General

§1505. General Administrative Requirements

A. ...

B. No person under the age of 21 shall purchase or acquire explosives or explosive supplies.

C. - L. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1472.1 et seq.

HISTORICAL NOTE: Filed by the Department of Public Safety, Office of State Police, at the Office of the State Register, 1974, promulgated and amended LR 10:803 (October 1984), amended by the Department of Public Safety and Corrections, Office of State Police, Transportation and Environmental Safety Section, Explosive Control Unit, LR 22:1230 (December 1996), amended by the Department of Public Safety and Corrections, Office of State Police, LR 34:2674 (December 2008), LR 35:491 (March 2009), LR 36:550 (March 2010), LR 40:2609 (December 2014), LR 45:281 (February 2019).

§1509. General Storage Requirements

A. - C. ...

D. The ground around outdoor magazines shall slope away for drainage. The land surrounding outdoor magazines shall be kept clear of brush, dried grass, leaves, and other

combustible materials for a distance of 50 feet in each direction.

E. - J. ...

K. All factory buildings and magazines in which explosives are had, kept, or stored, must be located beyond the corporate limits of any city or town, except with the consent of the proper local authorities and the Office of the Deputy Secretary of Public Safety Services. In no instance shall magazines located inside buildings contain in excess of 50 pounds of explosives. Smokeless propellants shall not be included in these quantity limitations. Cap magazines must be separated from other magazines by a distance of at least 10 feet. Where such storage is permitted, it shall be located on the ground floor and at street level.

L. - N. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1472.1 et seq.

HISTORICAL NOTE: Filed by the Department of Public Safety, Office of State Police, at the Office of the State Register, 1974, promulgated and amended LR 10:803 (October 1984), amended by the Department of Public Safety and Corrections, Office of State Police, Transportation and Environmental Safety Section, Explosive Control Unit, LR 22:1230 (December 1996), amended by the Department of Public Safety and Corrections, Office of State Police, LR 26:91 (January 2000), LR 36:550 (March 2010), LR 45:281 (February 2019).

§1531. General Requirements

A. The handling of explosives shall be performed only by a person holding a valid and subsisting license to use explosives.

B. - O. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1472.1 et seq.

HISTORICAL NOTE: Adopted by the Department of Public Safety, Office of State Police, 1974, promulgated and amended LR 10:803 (October 1984), amended by the Department of Public Safety and Corrections, Office of State Police, Transportation and Environmental Safety Section, Explosive Control Unit, LR 22:1230 (December 1996), LR 24:106 (January 1998), amended by the Department of Public Safety and Corrections, Office of State Police, LR 26:91 (January 2000), LR 34:1038 (June 2008), LR 34:2676 (December 2008), LR 45:281 (February 2019).

Jason Starnes
Chief Administrative Officer

1902#012

RULE

Department of Wildlife and Fisheries Office of Fisheries and Wildlife and Fisheries Commission

Removal of Abandoned Crab Traps (LAC 76:VII.367)

Editor's Note: This Rule is being repromulgated to correct a manifest typographical error. The original Rule can be viewed on pages 78-79 of the January 20, 2019 *Louisiana Register*.

In accordance with the Administrative Procedure Act, R.S. 49:950 et seq., and through the authority granted in R.S. 56:332(N), the Wildlife and Fisheries Commission has amended LAC 76:VII.367 to temporarily close a portion of

state inside waters to the use of crab traps in order to facilitate the removal of abandoned crab traps in these waters.

The Wildlife and Fisheries Commission has amended the provisions in LAC 76:VII.367 governing the locations of temporary crab trap closures to address problems in portions of state waters resulting from large numbers of abandoned and derelict crab traps (*Louisiana Register*, Volume 30, Number 1; Volume 31, Number 1; Volume 32, Number 2; Volume 33, Number 1; Volume 34, Number 1; Volume 36; Number 1; Volume 38, Number 1; Volume 38, Number 12; Volume 40, Number 1; Volume 41, Number 1; Volume 42, Number 1; Volume 42, Number 12; Volume 44, Number 1). The Wildlife and Fisheries Commission took action on October 4, 2018 to describe a new portion of state waters to be temporarily closed to the use of crab traps for the purpose of conducting a crab trap cleanup. This Rule is hereby adopted on the day of promulgation.

Title 76

WILDLIFE AND FISHERIES

Part VII. Fish and Other Aquatic Life

Chapter 3. Saltwater Sport and Commercial Fishery

§367. Removal of Abandoned Crab Traps

A. The use of crab traps shall be prohibited for a 14-day period from 12 a.m. February 1, 2019 through 11:59 p.m. February 14, 2019 within portions of Plaquemines and Jefferson Parishes as described below:

1. from a point originating on the western boundary of the Barataria Waterway (29 degrees 34 minutes 54.52 seconds north latitude, 90 degrees 3 minutes 41.24 seconds west longitude); thence easterly to the intersection of Highway 23 and Reddick Lane (29 degrees 34 minutes 53.36 seconds north latitude, 89 degrees 49 minutes 38.29 seconds west longitude); thence southerly on Highway 23 to the intersection of Caroline Avenue and Highway 23; thence southwesterly to a point where Little Pass and the southern bank of the Freeport Sulphur Canal intersect (29 degrees 27 minutes 19.15 seconds north latitude, 89 degrees 42 minutes 25.96 seconds west longitude); thence southwesterly following the southern bank of the Freeport Sulphur Canal to a point located at 29 degrees 23 minutes 51.08 seconds north latitude, 89 degrees 46 minutes 30.00 seconds west longitude; thence westerly to a point located on the western shore of the Barataria Waterway at 29 degrees 24 minutes 17.19 seconds north latitude, 89 degrees 59 minutes 24.00 seconds west longitude; thence northerly following the western shore of the Barataria Waterway and terminating at the origin.

B. The use of crab traps shall be prohibited for a 10-day period from 12 a.m. February 1, 2019 through 11:59 p.m. February 10, 2019 within Jefferson, St. John the Baptist, St. Charles, St. Tammany, and Tangipahoa Parishes as described below:

1. from a point of origin where I-55 intersects Pass Manchac (30 degrees 17 minutes 7.08 seconds north latitude, 90 degrees 24 minutes 6.07 seconds west longitude); thence easterly following the northern bank of Pass Manchac to the point where Pass Manchac exits at the northwest bank of Lake Pontchartrain; thence northerly following the bank of Lake Pontchartrain to the south bound lane of the Lake Pontchartrain Causeway (30 degrees 21 minutes 51.75 seconds north latitude, 90 degrees 5 minutes

38.59 seconds west longitude); thence southerly to a point where the Lake Pontchartrain Causeway crosses the Lakefront Trail located at 30 degrees 1 minutes 10.06 seconds north latitude, 90 degrees 9 minutes 17.28 seconds west longitude; thence westerly following the Lakefront Trail along the south bank of Lake Pontchartrain until it intersects the Duncan Canal (30 degrees 2 minutes 50.56 seconds north latitude, 90 degrees 16 minutes 45.21 seconds west longitude); thence westerly past the Duncan Canal continuing to follow the south bank of Lake Pontchartrain to a point where I-10 passes over the southern bank of Lake Pontchartrain (30 degrees 3 minutes 21.43 seconds north latitude, 90 degrees 22 minutes 17.79 seconds west longitude); thence westerly on I-10 to the intersection of I-55, thence northerly on I-55 and terminating at the origin.

C. The use of crab traps shall be prohibited for a 14-day period from 12 a.m. February 15, 2019 through 11:59 p.m. February 28, 2019 within portions of Terrebonne Parish as described below:

1. from a point originating at the intersection of the eastern shoreline of Bayou Dularge and the northern shoreline of Falgout Canal (29 degrees 24 minutes 44.098 seconds north latitude, 90 degrees 46 minutes 58.47 seconds west longitude); thence westerly along the northern shoreline of Falgout Canal to Lake de Cade; thence westerly along the northern shoreline of Lake de Cade to the mouth of Bayou de Cade; thence southwesterly along the northern shoreline of Bayou de Cade to Lost Lake; thence westerly along the northern shoreline of Lost Lake to the mouth of Rice Bayou; thence southerly along the western shoreline of Rice Bayou to Blue Hammock Bayou; thence westerly along the northern shore of Blue Hammock Bayou to Four League Bay; thence southerly along the eastern shoreline of Four League Bay to the mouth of Oyster Bayou; thence southerly along the eastern shoreline of Oyster Bayou to a point along the inside-outside shrimp line as defined in LAC 76:VII.370 (29 degrees 13 minutes 12.001 seconds north latitude, 91 degrees 07 minutes 48.002 seconds west longitude); thence easterly along the inside-outside shrimp line to the eastern shoreline of Bayou Grand Caillou; thence northerly along the eastern shoreline of Bayou Grand Caillou to 29 degrees 15 minutes 00 seconds north latitude; thence westerly across Bayou Grand Caillou to the northern shoreline of the Tennessee Gas Pipeline canal; thence westerly along the northern shoreline of the Tennessee Gas Pipeline canal to the eastern shore of Bayou Dularge; thence northerly along the eastern shoreline of Bayou Dularge and terminating at its origin.

D. The use of crab traps shall be prohibited for a 14-day period from 12 a.m. February 15, 2019 through 11:59 p.m. February 28, 2019 within Plaquemines parish as described below:

1. from a point originating along the eastern shoreline of the Mississippi River at 29 degrees 46 minutes 11.835 seconds north latitude; thence easterly along 29 degrees 46 minutes 11.835 seconds north latitude to its intersection with the eastern bank of Bayou Terre Aux Boeufs at 29 degrees 46 minutes 11.835 seconds north latitude, 89 degrees 47 minutes 20.53 seconds west longitude; thence southerly along the eastern bank of Bayou Terre Aux Boeufs to 29 degrees 41 minutes 15.19 seconds north latitude, 89 degrees 38 minutes 00 seconds west longitude; thence southerly

along 89 degrees 38 minutes 00 seconds west longitude to 29 degrees 34 minutes 12 seconds north latitude, 89 degrees 38 minutes 00 seconds west longitude; thence westerly along 29 degrees 34 minutes 12 seconds north latitude to 29 degrees 34 minutes 12.00 seconds north latitude, 89 degrees 42 minutes 36 seconds west longitude; thence southerly along 89 degrees 42 minutes 36 seconds west longitude to its intersection with the eastern bank of the Mississippi River at 29 degrees 30 minutes 51.57 seconds north latitude, 89 degrees 42 minutes 36.24 seconds west longitude; thence northerly along the eastern bank of the Mississippi River to its point of origin.

E. The use of crab traps shall be prohibited for a 10-day period from 12 a.m. March 13, 2019 through 11:59 p.m. March 22, 2019 within Cameron and Calcasieu Parishes as described below:

1. from a point originating at the Louisiana/Texas state line at 29 degrees 57 minutes 00 seconds north latitude, 93 degrees 48 minutes 29.67 seconds west longitude; thence northerly along the Louisiana/Texas state line to its intersection with the southernmost east bound lane on Interstate 10; thence northeasterly along the southernmost east bound lane on Interstate 10 to its intersection at 30 degrees 11 minutes 15.16 seconds north latitude, 93 degrees 33 minutes 18 seconds west longitude; thence southerly along 93 degrees 33 minutes 18 seconds west longitude to its intersection at 29 degrees 57 minutes 00 seconds north latitude, 93 degrees 33 minutes 18.00 seconds west longitude; thence westerly along 29 degrees 57 minutes 00 seconds north latitude to its point of origin.

F. All crab traps remaining in the closed area during the specified period shall be considered abandoned. Crab trap removal regulations do not provide authorization for access to private property; authorization to access private property can only be provided by individual landowners. Crab traps may be removed only between one-half hour before sunrise to one-half hour after sunset. Department of Wildlife and Fisheries personnel or its designees are authorized to remove these abandoned crab traps within the closed area. All traps removed during a closed area are to be brought to the designated disposal area. No person removing crab traps from the designated closed areas during the closure periods shall possess these traps outside of the closed area. The Wildlife and Fisheries Commission authorizes the secretary of the Department of Wildlife and Fisheries to designate disposal sites.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:332(N).

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission LR 30:101 (January 2004), amended LR 31:108 (January 2005), LR 32:266 (February 2006), LR 33:113 (January 2007), LR 34:97 (January 2008), LR 36:77 (January, 2010), LR 38:146 (January 2012), LR 38:3250 (December 2012), LR 40:96 (January 2014), LR 41:155 (January 2015), LR 42:70 (January 2016), amended by the Department of Wildlife and Fisheries, Office of Fisheries and the Wildlife and Fisheries Commission LR 42:2196 (December 2016), LR 44:100 (January 2018), LR 45:00 (January 2019), repromulgated LR 45:282 (February 2019).

Jack Montoucet
Secretary

1902#020

Notices of Intent

NOTICE OF INTENT

Department of Children and Family Services Child Support Enforcement Section

Criminal History Records Checks for Access to Federal Tax Information (LAC 67:I.205)

In accordance with the provisions of the Administrative Procedure Act R.S. 49:953(A), the Department of Children and Family Services (DCFS) proposes to promulgate LAC 67:I.205, Criminal History Records checks for Access to Federal Tax Information (FTI).

R.S. 46:51.3 grants the Department of Children and Family Services authority to perform criminal history records checks of current and prospective employees, contractors and subcontractors. The statute mandates that the department promulgate rules to implement the requirements specified in R.S. 15:587.5. DCFS proposes to enact §205, Criminal History Checks for Access to Federal Tax Information, to detail the procedures to be followed by the department in performance of required criminal history checks.

Title 67

SOCIAL SERVICES

Part I. General Administration

Chapter 2. Criminal Background and State Central Registry Checks

§205. Criminal History Records Checks for Access to Federal Tax Information

A. Pursuant to R.S. 46:51.3, the Department of Children and Family Services shall perform criminal history records checks of current and prospective employees, contractors, or subcontractors, within the office of child support enforcement and family support, that have access to federal tax information (FTI) and/or criminal history record information.

1. In compliance with the requirements of R.S. 15:587.5, current or prospective employees, contractors, or subcontractors within the office of child support enforcement and family support shall be required to submit to a criminal history records check to be conducted by the Louisiana Bureau of Criminal Identification and Information. Fingerprints and other identifying information shall be submitted to the Louisiana Bureau of Criminal Identification and Information by the current or prospective employee, contractor, or subcontractor.

2. The department shall also request local criminal history records checks for current or prospective employees, contractors, or subcontractors within the office of child support enforcement and family support with access to FTI and/or criminal history record information. The local criminal history records checks request shall be sent to any jurisdiction where the current or prospective employee, contractor, or subcontractor has lived, worked, or attended school within the last five years.

3. Fingerprinting and national, state, and local criminal history records checks shall be used by the department to determine the suitability of current or prospective employees, contractors, or subcontractors within the Office of Child Support Enforcement and Family Support Sections to access FTI and records.

a. Prospective employees shall be subject to fingerprinting and national, state, and local criminal history records checks only after a conditional offer of employment has been made.

b. Current employees, contractors and subcontractors shall be subject to fingerprinting and national, state, and local criminal history records checks, at a minimum of every 10 years.

4. The costs of providing the criminal history records check for current employees, contractors, or subcontractors within the office of child support enforcement and family support shall be charged to the department by the Louisiana Bureau of Criminal Identification and Information for furnishing information contained in its criminal history and identification files, including any additional costs of providing the national and local criminal history records checks, which pertains to the current or prospective employee, contractor or subcontractor.

AUTHORITY NOTE: Promulgated in accordance with Act 147 of the 2017 Regular Legislative Session.

HISTORICAL NOTE: Promulgated by the Department of Children and Family Services, Child Support Enforcement Section, LR 45:

Family Impact Statement

The proposed Rule is not anticipated to have an impact on family formation, stability, and autonomy as described in R.S. 49:972.

Poverty Impact Statement

The proposed Rule is not anticipated to have an impact on poverty as defined by R.S. 49:973.

Small Business Analysis

The proposed Rule is not anticipated to have an adverse impact on small businesses as defined in the Regulatory Flexibility Act.

Provider Impact Statement

The proposed Rule is not anticipated to have an impact on providers of services funded by the state as described in HCR 170 of the 2014 Regular Legislative Session.

Public Comments

All interested persons may submit written comments through March 27, 2019, to Sammy Guillory, Deputy Assistant Secretary, Department of Children and Family Services, Post Office Box 94065, Baton Rouge, Louisiana, 70804-90656.

Public Hearing

A public hearing on the proposed Rule will be held on March 27, 2019, at the Department of Children and Family Services, Iberville Building, 627 North Fourth Street, Seminar Room 1-127, Baton Rouge, Louisiana beginning at 10 a.m. All interested persons will be afforded an

opportunity to submit data, views, or arguments, orally or in writing, at said hearing. Individuals with disabilities who require special services should contact the Bureau of Appeals at least seven working days in advance of the hearing. For Assistance, call (225) 342-4120 (Voice and TDD).

Marketa Garner Walters
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Criminal History Records Checks for
Access to Federal Tax Information**

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

The proposed rule requires criminal background checks for the Department of Children and Family Services (DCFS) employees, contractors, and subcontractors that have access to federal tax information. This rule is being proposed to comply with Act 147 of the 2017 RLS, which requires background checks every ten years of DCFS employees, contractors, and subcontractors who have access to federal tax information.

The proposed rule change is estimated to increase expenditures for the DCFS by approximately \$109,097 (\$37,093 state and \$72,004 federal) in FY 19 for background checks, equipment purchases, and rule publication.

The estimated cost for DCFS to obtain a local, state, and federal criminal background check is \$54.25 per person. DCFS anticipates requesting background checks on 860 individuals in FY 19. Therefore, the total cost of obtaining background checks is estimated to be \$46,655 (860 individuals x \$54.25 per background check). In subsequent years, DCFS will incur indeterminable costs associated with background checks as new DCFS employees, contractors, and subcontractors are granted access to federal tax information.

There will also be a one-time cost in FY 19 to DCFS of \$47,910 for the purchase of six mobile terminals (6 terminals x \$7,985 per terminal). These terminals will be used to collect fingerprints and transmit requests to the Louisiana Bureau of Criminal Identification. The use of the equipment requires maintenance agreements of \$13,680 per year (6 terminals x \$2,280 annual maintenance agreement).

Additionally, in FY 19 DCFS will incur an estimated cost of \$852 for the publication of the proposed rule.

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

The proposed rule will increase revenue in the statutorily dedicated Criminal Identification and Information Fund by an estimated \$22,360 for 860 state and national background checks in FY19, and an indeterminable amount in subsequent years as new DCFS employees, contractors, and subcontractors are granted access to federal tax information. The Office of State Police will administer the state and federal background checks at an anticipated charge of \$39.25 each, of which \$26 will be deposited into the Criminal Identification and Information Fund (860 individuals x \$26 = \$22,360) and \$13.25 will be remitted to the federal government.

The proposed rule will also increase revenue for local government by an estimated \$12,900 for 860 local background checks in FY19, and an indeterminable, though likely marginal, amount in subsequent years as new DCFS employees, contractors, and subcontractors are granted access to federal tax information. Local jurisdictions will administer local background checks at an anticipated charge of \$15 each.

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

There may be an economic cost to DCFS employees that have adverse findings on their criminal record, as this may deem the employee unsuitable to handle federal tax information, which will impact their ability to work for DCFS.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT
(Summary)**

The degree to which the rule will affect competition and employment is indeterminable. Prospective employees, contractors, and subcontractors will be notified of this requirement during the application process. People who do not believe they can meet this requirement will likely remove themselves from the pool of candidates without DCFS' knowledge.

Sammy Guillory
Deputy Assistant
1902#028

Evan Brasseaux
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Children and Family Services
Licensing Section**

State Central Registry—Juvenile Detention Facilities
(LAC 67:V.Chapter 75)

In accordance with the provisions of the Administrative Procedure Act R.S. 49:953 (A), the Department of Children and Family Services (DCFS) proposes to amend LAC 67:V, Subpart 8, Residential Licensing, Chapter 75, Juvenile Detention Facilities.

The proposed Rule amends Chapter 75, Juvenile Detention Facilities, §§7505, 7507, and 7511, and promulgates §7508. In accordance with R.S. 15:1110.2, any owner, operator, current or prospective employee, or volunteer requesting licensure or licensed by the DCFS is prohibited from ownership or employment if that person's name is recorded on the state central registry as a perpetrator with a justified (valid) finding of child abuse and/or neglect. Each provider licensed by the DCFS shall submit a request for a state central registry check for all owners, staff, contractors, LDE staff, and volunteers prior to November 16, 2018. The implementation of this Rule will ensure that no Individual with a justified (valid) finding of child abuse and/or neglect listed on the state central registry owns, provides services for, or is employed in a facility licensed by DCFS.

The text of this proposed Rule may be viewed in the Emergency Rule section of this edition of the *Louisiana Register*.

Family Impact Statement

The proposed Rule is not anticipated to have an impact on family formation, stability, and autonomy as described in R.S. 49:972.

Poverty Impact Statement

The proposed Rule is not anticipated to have an impact on poverty as defined by R.S. 49:973.

Small Business Analysis

The proposed Rule is not anticipated to have an adverse impact on small businesses as defined in the Regulatory Flexibility Act.

Provider Impact Statement

The proposed Rule is not anticipated to have an impact on providers of services funded by the state as described in HCR 170 of the 2014 Regular Legislative Session.

Public Comments

All interested persons may submit written comments through March 27, 2019, to Angie Badeaux, Licensing Program Director, Department of Children and Family Services, P. O. Box 3078, Baton Rouge, LA, 70821.

Public Hearing

A public hearing on the proposed Rule will be held on March 27, 2019, at the Department of Children and Family Services, Iberville Building, 627 North Fourth Street, Seminar Room 1-127, Baton Rouge, LA beginning at 9:00 a.m. All interested persons will be afforded an opportunity to submit data, views, or arguments, orally or in writing, at said hearing. Individuals with disabilities who require special services should contact the DCFS Appeals Unit at least seven working days in advance of the hearing. For Assistance, call (225) 342-4120 (Voice and TDD).

Marketa Garner-Walters
Secretary

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

**RULE TITLE: State Central Registry
Juvenile Detention Facilities**

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

The proposed rule change is anticipated to increase expenditures for the Department of Children and Family Services (DCFS) by approximately \$10,224 in FY 19 for the publication of the proposed rule. It is not anticipated that any other state or local governmental units will incur costs or savings as a result of this rule change.

In accordance with R.S. 46:1414.1, a rule was promulgated in July 2018 that requires a State Central Registry check for all DCFS specialized provider owners and staff. This proposed rule codifies the current process of requesting State Central Registry checks, as established by the July rule, specifically for Juvenile Detention Facilities owners, staff, contractors, and volunteers. The proposed rule also clarifies that no individual with a justified finding of child abuse or neglect in the State Central Registry shall own or be employed by Juvenile Detention Facilities licensed by DCFS.

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

Implementation of the proposed rule will have no effect on revenue collections of state or local governmental units.

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

Implementation of this proposed rule will have no cost or economic benefit to directly affected persons or nongovernmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule has no known effect on competition and employment.

Terri Ricks
Deputy Secretary
1902#030

Evan Brasseaux
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Environmental Quality
Office of the Secretary
Legal Affairs and Criminal Investigation Division**

Recycling Tax Credit Reduction
(LAC 33:VII.10415)(SW065)

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary gives notice that rulemaking procedures have been initiated to amend the Solid Waste regulations, LAC 33:VII.10415 (SW065).

This Rule reduces the amount of the credit, related to purchase of qualified new recycling manufacturing, process equipment, and/or a qualified service contract pertaining to equipment, from 20 to 14 percent.

Louisiana Revised Statute 47:6055 authorizes an income tax credit for purchase of new recycling manufacturing, process equipment, and/or a service contract pertaining to the equipment. Act 400 of the 2017 Regular Legislative Session made the reduction credit permanent for equipment or service contracts. The Rule implements the change in R.S. 47:6055. The basis and rationale of this Rule is to conform with revisions to the Louisiana statutes. This Rule meets an exception listed in R.S. 30:2019(D)(2) and R.S. 49:953(G)(3); therefore, no report regarding environmental/health benefits and social/economic costs is required.

Title 33

ENVIRONMENTAL QUALITY

Part VII. Solid Waste

Subpart 2. Recycling

Chapter 104. Credit for New Recycling Manufacturing or Process Equipment and/or Service Contracts

§10415. Amount of Credit

A. The maximum total credit related to a purchase of qualified new recycling manufacturing or process equipment and/or a qualified service contract that may be allowable for all taxable periods is 14 percent of the cost of the qualified recycling equipment or qualified service contract, less the amount of any other Louisiana tax credits for the purchase of the equipment or the cost of the service contract. The total tax credits allowed under this Chapter shall be limited to five million dollars per tax year. Example:

Cost of equipment	\$1,000,000
	X .14
	\$ 140,000
Less other Louisiana credit on purchase	\$ 40,000
Maximum credit for all taxable periods	\$ 100,000

B. Fourteen percent of the maximum total credit related to a purchase of qualified recycling equipment and/or a qualified service contract is earned each taxable period in which the equipment or service contract continues to be in use exclusively in the state of Louisiana to a maximum of five periods. Example:

Maximum credit for all taxable periods	\$ 100,000
	X .14
Credit earned for this taxable period	\$ 14,000

C. - E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:6005.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, LR 18:842 (August 1992), amended by the Office of the Secretary, Legal Affairs Division, LR 33:2633 (December 2007), amended by the Office of the Secretary, Legal Affairs and Criminal Investigations Division, LR 45:

Family Impact Statement

This Rule has no known impact on family formation, stability, and autonomy as described in R.S. 49:972.

Poverty Impact Statement

This Rule has no known impact on poverty as described in R.S. 49:973.

Provider Impact Statement

This Rule has no known impact on providers as described in HCR 170 of 2014.

Public Comments

All interested persons are invited to submit written comments on the proposed regulation. Persons commenting should reference this proposed regulation by SW065. Such comments must be received no later than April 8, 2019, at 4:30 p.m., and should be sent to Deidra Johnson, Attorney Supervisor, Office of the Secretary, Legal Affairs and Criminal Investigations Division, P.O. Box 4302, Baton Rouge, LA 70821-4302 or to fax (225) 219-4068 or by e-mail to deidra.johnson@la.gov. Copies of these proposed regulations can be purchased by contacting the DEQ Public Records Center at (225) 219-3168. Check or money order is required in advance for each copy of SW065. These proposed regulations are available on the Internet at www.deq.louisiana.gov/portal/tabid/1669/default.aspx.

Public Hearing

A public hearing will be held on April 1, 2019, at 1:30 p.m. in the Galvez Building, Oliver Pollock Conference Room, 602 N. Fifth Street, Baton Rouge, LA 70802. Interested persons are invited to attend and submit oral comments on the proposed amendments. Should individuals with a disability need an accommodation in order to participate, contact Deidra Johnson at the address given below or at (225) 219-3985. Two hours of free parking are allowed in the Galvez Garage with a validated parking ticket.

These proposed regulations are available for inspection at the following DEQ office locations from 8 a.m. until 4:30 p.m.: 602 N. Fifth Street, Baton Rouge, LA 70802; 1823 Highway 546, West Monroe, LA 71292; State Office Building, 1525 Fairfield Avenue, Shreveport, LA 71101; 1301 Gadwall Street, Lake Charles, LA 70615; 111 New Center Drive, Lafayette, LA 70508; 110 Barataria Street, Lockport, LA 70374; 201 Evans Road, Bldg. 4, Suite 420, New Orleans, LA 70123.

Herman Robinson
General Counsel

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

RULE TITLE: Recycling Tax Credit Reduction

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

LDEQ does not anticipate any costs or savings by implementing the proposed Rule.

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

There will be an indeterminable increase in revenue collections for the state as a result of this proposed Rule change.

Act 400 of 2017 made permanent a reduction from 20 percent to 14 percent of the tax credit related to purchases of qualified new recycling manufacturing or process equipment and/or qualified service contracts.

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

There will be a reduction in economic benefits for individuals who apply for this tax credit. Otherwise there should be little or no net effect to costs and/or economic benefits for the regulated community.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed Rule should have no effect on competition and employment.

Herman Robinson
General Counsel
1902#050

Evan Brasseaux
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Environmental Quality
Office of the Secretary
Legal Affairs and Criminal Investigation Division**

Waste Tire Fees
(LAC 33:VII.10519, 10521, and 10535)(SW066)

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary gives notice that rulemaking procedures have been initiated to amend the Solid Waste regulations, LAC 33:VII.10519, 10521, and 10535 (SW066).

This Rule provides for changes to the waste tire fees which were authorized in Act 451 of the 2016 Regular Legislative Session and Act 541 of the 2018 Regular Legislative Session. The basis and rationale for this Rule are to implement the fee changes authorized in Act 451 of the 2016 Regular Legislative Session and Act 541 of the 2018 Regular Legislative Session. This Rule meets an exception listed in R.S. 30:2019(D)(2) and R.S. 49:953(G)(3); therefore, no report regarding environmental/health benefits and social/economic costs is required.

**Title 33
ENVIRONMENTAL QUALITY
Part VII. Solid Waste
Subpart 2. Recycling**

Chapter 105. Waste Tires

§10519. Standards and Responsibilities of Waste Tire Generators and Sellers of Tires

A. - B. ...

C. Each tire dealer doing business in the state of Louisiana shall be responsible for the collection of the \$2.25 waste tire fee upon the sale of each passenger/light truck tire, \$5 waste tire fee upon the sale of each medium truck tire, and \$10 waste tire fee upon the sale of each off-road tire. For recapped or retreaded tires, a waste tire fee of \$1.25 shall be collected upon the sale of each recapped or retreaded tire. These fees shall also be collected upon replacement of all recall and adjustment tires. These fees shall be collected whether or not the purchaser retains the waste tires. The department does not require the collection of fees on the sale of tires weighing 500 pounds or more, solid tires, or tires which are de minimis in nature, including but not limited to lawn mower tires, bicycle tires, and golf cart tires.

D. - F.1. ...

2. "All Louisiana tire dealers are required to collect a waste tire cleanup and recycling fee from the consumer at the time of the retail sale of \$2.25 for each passenger/light truck tire, \$5 for each medium truck tire, \$10 for each off-road tire, and \$1.25 for recapped or retreaded tires. These fees shall also be collected upon replacement of all recall and adjustment tires. Tire fee categories are defined in the Waste Tire Regulations. This fee must be collected whether or not the purchaser retains the waste tires. Tire dealers must accept from the purchaser, at the time of sale, one waste tire for every tire sold, unless the purchaser elects to retain the waste tire. The department does not require the collection of fees on the sale of tires weighing 500 pounds or more, solid tires, or tires which are de minimis in nature, including but not limited to lawn mower tires, bicycle tires, and golf cart tires."

G. - R. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2411-2422.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 18:40 (January 1992), amended LR 20:1001 (September 1994), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2777 (December 2000), LR 27:830 (June 2001), LR 27:2227 (December 2001), LR 28:1953 (September 2002), LR 29:1818 (September 2003), LR 29:2780 (December 2003), amended by the Office of Environmental Assessment, LR 31:1323 (June 2005), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2503 (October 2005), LR 33:90 (January 2007), LR 33:2158 (October 2007), amended by the Office of the Secretary, Legal Division, LR 42:255 (February 2016), amended by the Office of the Secretary, Legal Affairs and Criminal Investigations Division, LR 45:

§10521. Standards and Responsibilities of Sellers of Motor Vehicles

A. ...

B. Motor vehicle dealers doing business in the state of Louisiana, who sell new vehicles, shall be responsible for the collection from the consumer of the \$2.25 waste tire fee for each tire upon the sale of each vehicle with passenger/light truck tires, the \$5 waste tire fee for each tire upon the sale of each vehicle with medium truck tires, and the \$10 waste tire fee for each tire upon the sale of each off-road vehicle. No fee is collected on the designated spare tire. These fees shall also be collected upon replacement of all recall and adjustment tires. The department does not require the collection of fees on the sale of a vehicle with tires weighing 500 pounds or more, solid tires, or tires which are

de minimis in nature, including but not limited to lawn mower tires, bicycle tires, and golf cart tires.

C. - E. ...

F. Motor vehicle dealers shall prominently display to the public the notification provided by the administrative authority, indicating that:

"All Louisiana motor vehicle dealers selling new vehicles are required to collect a waste tire cleanup and recycling fee from the consumer of \$2.25 for each passenger/light truck tire, \$5 for each medium truck tire, and \$10 for each off-road tire, upon the sale of each new motor vehicle. These fees shall also be collected upon replacement of all recall and adjustment tires. No fee shall be collected on the designated spare tire. The department does not require the collection of fees on the sale of tires weighing 500 pounds or more, solid tires, or tires which are de minimis in nature, including but not limited to lawn mower tires, bicycle tires, and golf cart tires."

G. - J. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2411-2422.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, LR 31:1324 (June 2005), amended by the Office of the Secretary, Legal Affairs Division, LR 33:91 (January 2007), LR 33:2158 (October 2007), amended by the Office of the Secretary, Legal Division, LR 42:256 (February 2016), amended by the Office of the Secretary, Legal Affairs and Criminal Investigations Division, LR 45:

§10535. Fees and Fund Disbursement

A. - A.6. ...

B. A waste tire fee is hereby imposed on each tire sold in Louisiana, to be collected from the purchaser by the tire dealer or motor vehicle dealer at the time of retail sale. The fee shall be \$2.25 for each passenger/light truck tire, \$5 for each medium truck tire, and \$10 for each off-road tire. For recapped or retreaded tires, a waste tire fee of \$1.25 shall be collected upon the sale of each recapped or retreaded tire. This fee shall be collected whether or not the purchaser retains the waste tires. The department does not require the collection of fees on the sale of tires weighing 500 pounds or more, solid tires, or tires de minimis in nature, including but not limited to lawn mower tires, bicycle tires, and golf cart tires.

C. - E.8. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2411 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 20:1001 (September 1994), amended LR 22:1213 (December 1996), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2781 (December 2000), LR 27:832 (June 2001), LR 27:2228 (December 2001), amended by the Office of Environmental Assessment, LR 31:1324 (June 2005), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2504 (October 2005), LR 33:2160 (October 2007), amended by the Office of the Secretary, Legal Division, LR 42:268 (February 2016), LR 43:948 (May 2017), amended by the Office of the Secretary, Legal Affairs and Criminal Investigations Division, LR 45:

Family Impact Statement

This Rule has no known impact on family formation, stability, and autonomy as described in R.S. 49:972.

Poverty Impact Statement

This Rule has no known impact on poverty as described in R.S. 49:973.

Provider Impact Statement

This Rule has no known impact on providers as described in HCR 170 of 2014.

Public Comments

All interested persons are invited to submit written comments on the proposed regulation. Persons commenting should reference this proposed regulation by SW066. Such comments must be received no later than April 8, 2019, at 4:30 p.m., and should be sent to Deidra Johnson, Attorney Supervisor, Office of the Secretary, Legal Affairs and Criminal Investigations Division, P.O. Box 4302, Baton Rouge, LA 70821-4302 or to fax (225) 219-4068 or by e-mail to deidra.johnson@la.gov. Copies of these proposed regulations can be purchased by contacting the DEQ Public Records Center at (225) 219-3168. Check or money order is required in advance for each copy of SW066. These proposed regulations are available on the Internet at www.deq.louisiana.gov/portal/tabid/1669/default.aspx.

Public Hearing

A public hearing will be held on April 1, 2019, at 1:30 p.m. in the Galvez Building, Oliver Pollock Conference Room, 602 N. Fifth Street, Baton Rouge, LA 70802. Interested persons are invited to attend and submit oral comments on the proposed amendments. Should individuals with a disability need an accommodation in order to participate, contact Deidra Johnson at the address given below or at (225) 219-3985. Two hours of free parking are allowed in the Galvez Garage with a validated parking ticket.

These proposed regulations are available for inspection at the following DEQ office locations from 8 a.m. until 4:30 p.m.: 602 N. Fifth Street, Baton Rouge, LA 70802; 1823 Highway 546, West Monroe, LA 71292; State Office Building, 1525 Fairfield Avenue, Shreveport, LA 71101; 1301 Gadwall Street, Lake Charles, LA 70615; 111 New Center Drive, Lafayette, LA 70508; 110 Baratavia Street, Lockport, LA 70374; 201 Evans Road, Bldg. 4, Suite 420, New Orleans, LA 70123.

Herman Robinson
General Counsel

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Revisions to Update Waste Tire Fees

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

There are no estimated implementation costs or savings to state governmental units as a result of the proposed Rule change which codifies Act 541 of 2018 increasing the existing authorized fee of \$2.00 to \$2.25 for a 3-year period from October 1, 2018 through July 31, 2022. This fee will be levied on each passenger/light truck tire. This fee is deposited into the Waste Tire Management Fund (WTMF) which is used to operate the waste tire program in LDEQ.

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

There will be an increase in the (LDEQ) Waste Tire Management Fund (WTMF) of approximately \$1,144,363 per year for the 2019-20, 2020-21, and 2021-22 fiscal years. This fee will be used to provide payments to waste tire processors.

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

The proposed Rule change results in an increase of an additional \$.25 per tire to anyone purchasing a passenger/light truck tire.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no estimated effect on competition or employment in the public or private sector as a result of the proposed Rule change since the fee increase is being implemented across the board and will give no entity a competitive advantage over another.

Herman Robinson
General Counsel
1902#051

Evan Brasseaux
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Office of the Governor Board of Professional Geoscientists

Use of Seals (LAC 46:LXII.1501)

The Louisiana Board of Professional Geoscientists hereby gives notice that, pursuant to R.S. 37:711.8.C (1), it intends to amend LAC 46:LXII.1501 in accordance with the provisions of the Administrative Procedures Act, R.S. 49:950 et seq., and the Louisiana Professional Geoscience Practice Act, R.S. 37:711.1 et seq.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part LXII. Professional Geoscientists

Chapter 15. Seal

§1501. Use of Seals

A. License holders must obtain a seal as per R.S. 37:711.22.

B. The following rules for the use of seals to identify work performed by a professional geoscientist shall be binding on every licensee.

1. Seal Possession

a. Each professional geoscientist, upon licensure, shall obtain an official seal.

i. In the case of a temporary permit issued to a licensee of another jurisdiction, the licensee shall affix the seal of his/her jurisdiction of licensure, his/her signature, the date of execution, and his/her Louisiana temporary permit number to all of his/her work.

2. Seal Responsibility

a. The application of the licensee's seal, signature, and date shall constitute certification that the work thereon was done by the licensee or under his/her responsible charge. The licensee shall be personally and professionally responsible and accountable for the care, custody, control and use of his/her seal, professional signature and identification. A seal which has been lost, misplaced or stolen shall, upon discovery of its loss, be reported immediately to the board by the licensee. The board may

invalidate the licensure number of said licensee, if it deems this necessary, and issue another licensure number to the licensee.

3. Seal Use

a. The seal, signature, and date on a document constitute a certification that the document was prepared by the licensee or under his direct supervision. A licensee shall affix an unobscured seal, original signature, and date of signature to the original documents contained in the final version of any geoscience document as outlined below:

i. Each sheet of maps, cross sections, drawings, descriptions, charts, graphs, and reports of geoscientific practice shall be signed, sealed, and dated by the licensee who prepares it, by the licensee who provides direct supervisory control over its preparation, or by the licensee who reviews it in sufficient depth to fully coordinate and assume responsibility for documents prepared by another licensee.

ii. Where multiple sheets are bound together in one volume representing a singular geoscience document, the licensee who prepared such volume, under whose direction and control such volume was prepared, or who reviews it in sufficient depth to fully coordinate and assume responsibility thereof, shall sign, seal, and date a sheet that clearly identifies all of the other sheets included as part of the bound volume.

b. A *geoscience document* is any document that provides an interpretation or analysis of geoscience data, including but not limited to:

i. cross sections displaying geoscience data, including geological and/or geophysical parameters;

ii. contoured drawings, such as potentiometric surface maps, isopleth maps, and subsurface data;

iii. aquifer test analyses, including yield, transmissivity, or specific storage;

iv. groundwater modeling;

v. geoscientific surface resource and availability studies;

vi. geoscientific components of groundwater management plans;

vii. soil boring logs and well logs;

viii. soil, lithology, and/or geophysical maps;

ix. interpretation of geophysical surveys; and

x. interpretations, conclusions, and recommendations for further action(s) based on these data.

c. Preliminary or draft documents do not require a PG stamp; however, each sheet or page of a preliminary or draft document shall be clearly and prominently marked "preliminary" or "draft".

d. In accordance with the Standards for Environmental Site Assessments (ESA) published by the American Society for Testing and Materials (ASTM), Phase I ESAs do not require a PG stamp, unless one or more geoscience documents, findings, or conclusions is incorporated into the Phase I ESA. However, due to the nature of subsurface work and interpretations, Phase II and III ESAs require a PG stamp in accordance with the above requirements.

4. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:711.8.C(1).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Professional Geoscientists, LR 41:2348 (November 2015), amended LR 45:

Family Impact Statement

Pursuant to the provisions of R.S. 49:953(A), the Louisiana Board of Professional Geoscientists, through its chairman, has considered the potential family impact of amending LAC 46:LXII.1501.B.3. It is accordingly concluded that amending LAC 46:XXXII.1501.B.3 would appear to have no impact on the following:

1. the effect on stability of the family;
2. the effect on the authority and rights of parents regarding the education and supervision of their children;
3. the effect on the functioning of the family;
4. the effect on family earnings and family budget;
5. the effect on the behavior and personal responsibility of children;
6. the ability of the family or a local government to perform the function as contained in the proposed Rule.

Poverty Impact Statement

Pursuant to the provisions of R.S. 49:973, the Louisiana Board of Professional Geoscientists, through its chairman, has considered the potential poverty impact of amending LAC 46:LXII.1501.B.3. It is accordingly concluded that amending LAC 46:LXII.1501.B.3 would appear to have no impact on the following:

1. the effect on household income, assets, and financial security;
2. the effect on early childhood development and preschool through postsecondary education development;
3. the effect on employment and workforce development;
4. the effect on taxes and tax credits;
5. the effect on child and dependent care, housing, health care, nutrition, transportation, and utilities assistance.

Small Business Statement

In accordance with Section 965 of Title 49 of the Louisiana Revised Statutes, there is hereby submitted a regulatory flexibility analysis on the Rule proposed for adoption, repeal, or amendment. This will certify the agency has considered, without limitation, each of the following methods of reducing the impact of the proposed Rule on small businesses.

1. The Establishment of Less Stringent Compliance or Reporting Requirements for Small Businesses. The proposed Rule does not require compliance or reporting from small businesses.

2. The Establishment of Less Stringent Deadlines for Deadlines for Compliance or Reporting Requirements for Small Businesses. The proposed Rule does not require compliance or reporting from small businesses.

3. The Consolidation or Simplification of Compliance or Reporting Requirements for Small Businesses. The proposed Rule does not require compliance or reporting from small businesses.

4. The Establishment of Performance Standards for Small Businesses to Replace Design or Operational Standards Required in the Proposed Rule. The proposed Rule does not require compliance or reporting from small businesses.

5. The Exemption of Small Businesses from All or Any Part of the Requirements Contained in the Proposed Rule. The proposed Rule does not require compliance or reporting from small businesses.

Provider Impact Statement

Pursuant to the provisions of R.S. 49:953(A), the Louisiana Board of Professional Geoscientists, through its chairman, has considered the potential provider impact of amending LAC 46:LXII.1501.B.3. It is accordingly concluded that amending LAC 46:LXII.1501.B.3 would appear to have no impact on the following:

- 1. the effect on the staffing level requirements or qualifications required to provide the same level of service;
- 2. the total direct and indirect effect on the costs to the provider to provide the same level of service;
- 3. the overall effect on the ability of the provider to provide the same level of service.

Public Comments

All interested persons may submit comments relative to this proposed Rule, through March 18, 2019, to Harry Vorhoff, counsel for the Louisiana Board of Professional Geoscientists, at 1885 N. Third St., Baton Rouge, LA 70802.

William Finley
Chairman

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Use of Seals**

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

The proposed rule change will have no direct material effect on state or local governmental expenditures. The purpose of the proposed rule change is to provide guidance and clarification to professional geoscientists concerning how and when to use the professional geoscientist seal. Professional geoscientists receive an official seal upon licensure in order to certify a professional geoscientist did the work.

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

The proposed rule change will have no effect on revenue collections of state or local governmental units.

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

The proposed rule change will have no effect on costs to directly affected persons or non-governmental units, but will provide additional guidance to professional geoscientists concerning how and when to use the professional seal.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule change will have no effect on competition and employment.

William Finley
Chairman
1901#064

Evan Brasseaux
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

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

Direct Service Worker Registry
(LAC 48:I.Chapter 92)

The Department of Health, Bureau of Health Services Financing proposes to amend LAC 48:I.Chapter 92 as authorized by R.S. 36:254 and 40:2179-2179.1. This proposed Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

The Department of Health, Bureau of Health Services Financing proposes to amend the provisions governing the Direct Service Worker (DSW) Registry in order to 1) provide a process for direct service workers who have been placed on the DSW registry with a negative finding of neglect of a client to request removal, under certain conditions, and to provide for appeal opportunities if the reinstatement request is denied; and 2) clarify and ensure that the provisions for the DSW registry are promulgated in a clear and concise manner in the *Louisiana Administrative Code*.

Title 48

PUBLIC HEALTH—GENERAL

Part I. General Administration

Subpart 3. Licensing

Chapter 92. Direct Service Worker Registry

Subchapter A. General Provisions

§9201. Definitions

* * *

Assistance with Activities of Daily Living—such assistance may be the actual performance of the task for the individual, or may provide hands-on assistance with the performance of the tasks, or may include supervision and prompting to allow the individual to self-perform such tasks.

* * *

Daily Monitoring—activities pursued on a daily basis by a family member, direct service worker and/or other health care providers for the purposes of collecting critical information needed to assure the individual’s welfare. Monitoring activities may include, but are not limited to face-to-face home visits with the person receiving assistance or services and/or daily telephone calls with the individual or communication by other electronic means.

* * *

Department—the Louisiana Department of Health (LDH).

* * *

Direct Service Worker Registry—the negative database, maintained by the department, or its designee, of unlicensed persons who have a finding placed against them of abuse, neglect, misappropriation, exploitation, or extortion while employed as a DSW at a licensed health care facility or entity who are ineligible to be employed, or have continued employment, as a direct service worker.

* * *

Finding—allegations of abuse, neglect, misappropriation, exploitation or extortion that are placed against the DSW on the registry by the department for the following reasons:

1. - 2. ...

Health Care Provider—any health care facility, agency, or entity licensed and/or certified by LDH. Such entities may be referred to in other laws, statutes and regulations as providers, agencies, clinics, residential care units, homes or facilities. Health care providers include, but are not limited to, the following:

1. - 10. ...

Health Standards Section (HSS)—the section of the Department of Health responsible for the licensing and/or certification of health care providers.

Home and Community-Based Services—those services as defined in R.S. 40:2120.2 or a successor statute. For the purposes of this Rule, home and community-based services do not include services provided in day or residential congregate care settings including, but not limited to, the following:

1. - 6. ...

7. any other 24-hour facility licensed by the department, Department of Education or the Department of Children and Family Services, exclusive of center-based respite facilities.

* * *

Mental Abuse—emotional or mental abuse may involve any activity that is designed to blame, shame, humiliate, or intimidate an individual and includes, but is not limited to abuse that is facilitated or caused by taking or using photographs or recordings in any manner that would demean or humiliate a client using any type of equipment (e.g., cameras, smart phones, and other electronic devices) and/or keeping or distributing them through multimedia messages or on social media sites.

1. Mental abuse may occur through either verbal or nonverbal conduct which causes or has the potential to cause the client to experience humiliation, intimidation, fear, shame, agitation, or degradation, regardless of whether the client provided consent and regardless of the client's cognitive status. This may include, but is not limited to:

- a. photographs and recordings of clients that contain nudity;
- b. sexual and intimate relations;
- c. bathing, showering or toileting;
- d. providing perineal care, such as after an incontinence episode;
- e. agitating a client to solicit a response;
- f. derogatory statements directed to the client;
- g. showing a body part of the client without the client's face, whether it is the chest, limbs or back;
- h. labeling a client's pictures and/or providing comments in a demeaning manner;
- i. directing a client to use inappropriate language; and/or
- j. showing a client in a compromised position.

* * *

Neglect—the failure by a caregiver responsible for an adult's care or by other parties, to provide the proper or necessary support or medical, surgical, or any other care

necessary for his/her well-being, unless the resident exercises his/her right to refuse the necessary care.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2179-2179.1.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 32:2058 (November 2006), amended LR 33:95 (January 2007), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:3175 (December 2012), LR 42:893 (June 2016), amended by the Department of Health, Bureau of Health Services Financing, LR 45:

§9202. Introduction

A. The Department of Health (LDH) shall maintain a registry of individuals for whom specific findings of abuse, neglect, misappropriation, exploitation or extortion have been substantiated by the department, an administrative law judge, or a court of law.

B. The Direct Service Worker Registry will contain the following items on each individual for whom a finding has been placed:

1. - 3. ...

4. an accurate summary of finding(s); and

5. information relative to registry status which will be available through procedures established by the Health Standards Section (HSS).

6. Repealed.

C. Licensed and/or certified health care providers shall access the registry to determine if there is a finding that a prospective hire, or currently employed or contracted DSW, has been determined to have committed exploitation, extortion, abuse or neglect of an individual being supported, or misappropriated the individual's property or funds. If there is such a finding on the registry, the prospective employee shall not be hired as a DSW nor shall a current employee have continued employment as a DSW with the licensed and/or certified health care provider.

1. Access to the registry shall be limited to an inquiry for a specific DSW.

D. - D.1. ...

E. The provisions of this Chapter shall apply to DSWs who are compensated, either by direct employment or through contract, regardless of the setting, and specifically do not apply to those DSWs listed on the Certified Nurse Aide Registry established under rules promulgated by the LDH.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2179-2179.1.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 32:2059 (November 2006), amended LR 33:95 (January 2007), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:3176 (December 2012), LR 42:894 (June 2016), amended by the Department of Health, Bureau of Health Services Financing, LR 45:

Subchapter B. Reserved.

Subchapter C. Provider Participation

§9231. Health Care Provider Responsibilities

A. Prior to hiring any DSW or trainee, the licensed and/or certified health care provider shall:

1. ensure that the individual is at least 18 years of age;

2. document that the individual is able to read, write and comprehend the English language; and

3. access the registry in accordance with the provisions of §9202.C-C.1.

B. The health care provider shall have a written policy/process to check the DSW registry on the department's designated database at least every six months to determine if any currently employed or contracted DSW or trainee has been placed on the registry with a finding that he/she has been determined to have committed abuse or neglect of an individual being supported or misappropriated the individual's property or funds or committed exploitation or extortion of an individual being supported.

1. ...

2. If there is such a finding on the registry, the employee shall not have continued employment as a DSW with the licensed and/or certified health care provider in accordance with the provisions of §9202.C.

NOTE: The DSW registry is maintained on the department's designated database which may also contain other exclusionary information on a DSW. The provider's responsibility to access the database shall also be conducted in accordance with other departmental rules and regulations, as applicable.

D. Criminal History. In accordance with RS 40:1203.1-5 et seq., the provider shall have a written policy and process to request in writing a security check and the criminal history of an employee, either contracted or directly employed, conducted by the Louisiana State Police or authorized agency, upon offer of employment or contract.

1. An employer may make an offer of temporary employment to a non-licensed person pending the results of the criminal history and security check on the person. In such instances, the employer shall provide to the Louisiana State Police, or authorized agency, the name and relevant information relating to the person within 72 hours after the date the person accepts temporary employment.

2. The security check shall consist of the use of personal identifiers, such as name, social security number, date of birth, and driver's license number, to search the national sex offender public registry. The provider shall obtain from the Louisiana State Police or the authorized agency the results of the security check to verify if an applicant is listed in the national sex offender public registry.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2179-2179.1.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 32:2061 (November 2006), amended LR 33:97 (January 2007), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:3176 (December 2012), LR 42:894 (June 2016), amended by the Department of Health, Bureau of Health Services Financing, LR 45:

Subchapter D. Medication Administration and Noncomplex Tasks in Home and Community-Based Settings

§9243. General Requirements for the Performance of Medication Administration and Noncomplex Tasks in Home and Community-Based Settings

A. A registered nurse shall authorize and monitor medication administration and noncomplex tasks performed

by the direct service workers. In order for the RN to authorize these tasks, the direct service worker shall:

1. ...

2. attend to an individual who:

a. - c. ...

d. receives periodic assessment by a RN based on the person's health status and specified within the plan of care; in no case shall the periodic assessment be less than annually. A comprehensive assessment performed for a client in accordance with policies and procedures established by Medicaid or by a LDH program office may serve as the basis of the RN assessment but may not be used in lieu of the RN assessment.

B. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1031-1034.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:3177 (December 2012), amended LR 42:895 (June 2016), amended by the Department of Health, Bureau of Health Services Financing, LR 45:

§9245. Training Requirements for the Performance of Medication Administration and Noncomplex Tasks in Home and Community-Based Settings

A. - A.2. ...

3. Based on the nursing assessment and clinical judgment, the RN shall provide additional person-specific training when the person receiving care has a change in health status or physician orders and yet remains in a stable, predictable condition. The RN may make a determination based upon his/her assessment of the worker's competency that training can be safely performed via telephone contact, other means of electronic communication, or face-to-face contact with the worker. Examples include, but are not limited to:

A.3.a. - B.3.b.iv. ...

C. A direct service worker who has not completed didactic training and demonstrated competency in accordance with guidelines established and approved by the Department of Health and the Louisiana Board of Nursing shall not be allowed to perform medication administration or any noncomplex tasks covered by this Rule.

D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1031-1034.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:3177 (December 2012), amended LR 42:895 (June 2016), amended by the Department of Health, Bureau of Health Services Financing, LR 45:

§9249. Authorized Medication Administration and Noncomplex Tasks in Home and Community-Based Settings

A. - A.2. ...

3. other noncomplex tasks as identified by guidelines established and approved by the Department of Health and the Louisiana Board of Nursing.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1031-1034.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR

38:3178 (December 2012), amended by the Department of Health, Bureau of Health Services Financing, LR 45:

Subchapter E. Violations

§9273. Prohibited Direct Service Worker Conduct

A. The department provides a process for the review and investigation of all allegations of wrong-doing by DSWs. The following constitutes prohibited DSW conduct:

1. verbal, mental, sexual or physical abuse, corporal punishment or involuntary seclusion on an individual being supported;
2. neglect of an individual being supported; or
3. exploitation, extortion, or misappropriation of the individual's person, property or funds, inclusive of, but not limited to, the following:
 - a. credit card fraud;
 - b. theft of a firearm;
 - c. identity theft;
 - d. fraudulent acquisition of a credit card; or
 - e. theft of a vehicle.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2179-2179.1.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 32:2061 (November 2006), amended LR 33:98 (January 2007), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:3180 (December 2012), LR 42:895 (June 2016), amended by the Department of Health, Bureau of Health Services Financing, LR 45:

§9275. Notice of Violation

A. When there are substantiated allegations against the direct service worker, either through oral or written evidence, the department will notify the individual(s) implicated in the investigation of the following:

1. - 2. ...
3. appeal rights/opportunities:
 - a. the right to request from HSS an informal discussion (informal dispute resolution process); and
 - b. the right to request from the Division of Administrative Law an administrative hearing (appeal); or
 - c. the right to bypass the informal dispute resolution process and request appeal with the Division of Administrative Law.
4. Repealed.

B. The specified timeframe, up to and including permanent status, to cease employment as a DSW in a licensed health care facility will be indicated in the notice letter of placement of the finding against the DSW.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2179-2179.1.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 32:2061 (November 2006), amended LR 33:98 (January 2007), LR 42:895 (June 2016), amended by the Department of Health, Bureau of Health Services Financing, LR 45:

Subchapter F. Administrative Hearings

§9285. General Provisions

- A. - A.3. ...
 - a. Notification of the finding of abuse, neglect, exploitation, extortion, and/or misappropriation will then be sent to the DSW registry to be recorded.
- B. - C. ...

D. If there is a final and binding administrative hearing decision to place a finding on the DSW registry against the direct service worker, the department shall place the direct service worker's name and the adverse findings on the DSW registry. The finding(s) may remain on the DSW registry against the DSW for a specified length of time up to and including permanently dependent on the severity and nature of the offense.

1. The specified timeframe, up to and including permanent status, to cease employment as a DSW in a licensed health care facility will be stated in the notice letter of placement of the finding against the DSW.

E. Removal of the DSW's name from the DSW registry.

1. For those DSWs who only have a placement of finding of neglect, HSS will consider removal of the DSW's name from the registry only upon the DSW's written request to the department for reinstatement and in accordance with the following:

a. the employment and personal history of the DSW does not reflect a pattern of abusive behavior or neglect or instances of misappropriation, exploitation or extortion of an individual being supported;

b. the neglect involved in the original finding was a singular occurrence; and

c. a period of no less than one year has passed since the DSW's name was placed on the registry barring employment in a licensed health care facility as a DSW.

3. If the DSW successfully petitions the department to remove the DSW's name from the registry, the DSW will be notified in writing of such determination and date of removal.

4. If the DSW unsuccessfully petitions the department to remove the DSW's name from the registry, the DSW will be notified in writing of the department's decision and their right to an administrative appeal in accordance with §9275.A(3)a-c.

5. There shall be only one opportunity for a DSW to request removal of their name from the DSW registry.

6. There is no opportunity afforded for a DSW to request removal of a finding of abuse, extortion, misappropriation or exploitation placed against them on the registry.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2179-2179.1.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 32:2062 (November 2006), amended LR 33:98 (January 2007), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:3180 (December 2012), LR 42:896 (June 2016), amended by the Department of Health, Bureau of Health Services Financing, LR 45:

Family Impact Statement

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed Rule on the family has been considered. It is anticipated that this proposed Rule will have no impact on family functioning, stability and autonomy as described in R.S. 49:972.

Poverty Impact Statement

In compliance with Act 854 of the 2012 Regular Session of the Louisiana Legislature, the poverty impact of this

proposed Rule has been considered. It is anticipated that this proposed Rule will have no impact on child, individual, or family poverty in relation to individual or community asset development as described in R.S. 49:973.

Provider Impact Statement

In compliance with House Concurrent Resolution (HCR) 170 of the 2014 Regular Session of the Louisiana Legislature, the provider impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will have no impact on the staffing level requirements or qualifications required to provide the same level of service, no direct or indirect cost to the provider to provide the same level of service, and will have no impact on the provider's ability to provide the same level of service as described in HCR 170.

Public Comments

Interested persons may submit written comments to Cecile Castello, Health Standards Section, P.O. Box 3767, Baton Rouge, LA 70821 or by email to MedicaidPolicy@la.gov. Ms. Castello is responsible for responding to inquiries regarding this proposed Rule. The deadline for submitting written comments is at close of business, 4:30 p.m., on April 1, 2019.

Public Hearing

The department will conduct a public hearing at 9:30 a.m. on March 28, 2019 in Room 118 of the Bienville Building, which is located at 628 North Fourth Street, Baton Rouge, LA. All interested persons are invited to attend and present data, views, comments, or arguments, orally or in writing. Parking is available to the public in the Galvez Parking Garage which is located between North Sixth and North Fifth/North and Main Streets (cater-corner from the Bienville Building). Validated parking for the Galvez Garage may be available to public hearing attendees when the parking ticket is presented to LDH staff at the hearing.

Rebekah E. Gee MD, MPH
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Direct Service Worker Registry

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

It is anticipated that implementation of this proposed Rule will have no programmatic fiscal impact to the state other than the cost of promulgation. It is anticipated that \$2,052 will be expended in FY 18-19 for the state's administrative expense for promulgation of this proposed Rule and the final Rule.

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

It is anticipated that the implementation of this proposed Rule will not affect federal revenue collections or licensing fee collections.

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

This proposed Rule amends the provisions governing the Direct Service Worker (DSW) Registry in order to 1) provide a process for direct service workers who have been placed on the DSW Registry with a negative finding of neglect to a client to request removal, under certain conditions, and to provide for

appeal opportunities if the reinstatement request is denied; and 2) clarify and ensure that the provisions for the DSW Registry are promulgated in a clear and concise manner in the Louisiana Administrative Code. It is anticipated that the implementation of this proposed rule will not result in economic costs to DSW providers, but will be beneficial by providing a process to appeal certain negative findings and request reinstatement. Implementation of this proposed Rule is not anticipated to result in administrative costs associated with the appeals process for FY 18-19, FY 19-20 and FY 20-21.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This Rule has no known effect on competition and employment.

Cecile Castello
Director
1902#034

Evan Brasseaux
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Health Bureau of Health Services Financing

Pharmacy Benefits Management Program
Federal Upper Payment Limits and Physician-Administered
Drugs Reimbursement
(LAC 50:XXIX.105 and 949)

The Department of Health, Bureau of Health Services Financing proposes to amend LAC 50:XXIX.105 and §949 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This proposed Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

The Department of Health, Bureau of Health Services Financing amended the provisions governing the Pharmacy Benefits Management Program in order to revise the reimbursement methodology for physician-administered drugs in a physician office setting to bring the rates current and to incorporate a mechanism for periodic updates to the rates in compliance with U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS) requirements (*Louisiana Register*, Volume 44, Number 6). The department promulgated a Notice of Intent which proposed to amend the provisions governing pharmacy ingredient cost reimbursement in order to change the reimbursement methodology from average acquisition cost to the national average drug acquisition cost (*Louisiana Register*, Volume 45, Number 1). The department subsequently determined that the Notice of Intent published in the January 20, 2019 edition of the *Louisiana Register* erroneously repealed the provisions governing federal upper payment limits.

The department now proposes to amend the provisions governing reimbursement in the Pharmacy Benefits Management Program in order to: 1) reinstate the federal upper payment limits provisions; 2) align the reimbursement methodology for physician-administered drugs in a physician office setting with the corresponding CMS-approved State Plan Amendment; and 3) ensure that these provisions are appropriately promulgated in the *Louisiana Administrative Code*.

Title 50
PUBLIC HEALTH—MEDICAL ASSISTANCE

Part XXIX. Pharmacy

Chapter 1. General Provisions

§105. Medicaid Pharmacy Benefits Management System Point of Sale—Prospective Drug Utilization Program

A. - B. ...

C. Covered Drug List. The list of covered drugs is managed through multiple mechanisms. Drugs in which the manufacturer entered into the Medicaid Drug Rebate Program with CMS are included in the list of covered drugs. National average drug acquisition cost (NADAC) and usual and customary charges assist in managing costs on the covered drug list. Federal upper limits provide for dispensing of multiple source drugs at established limitations unless the prescribing practitioner specifies that the brand product is medically necessary for a patient. Establishment of co-payments also provides for management.

D. Reimbursement Management. The cost of pharmaceutical care is managed through NADAC of the ingredient or through wholesale acquisition cost (WAC) when no NADAC is assigned, and compliance with FUL regulations, the establishment of the professional dispensing fee, drug rebates and copayments. Usual and customary charges are compared to other reimbursement methodologies and the "lesser of" is reimbursed.

E. - L. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254, Title XIX of the Social Security Act, and the 1995-96 General Appropriate Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 32:1053 (June 2006), amended by the Department of Health, Bureau of Health Services Financing, LR 43:1180 (June 2017), LR 43:1553 (August 2017), LR 45:

Chapter 9. Methods of Payment

Subchapter D. Maximum Allowable Costs

§949. Fee for Service Cost Limits

A. - B.1.a. ...

2. federal upper payment limits plus the professional dispensing fee; or

a. Repealed.

3. the provider's usual and customary charges to the general public not to exceed the department's "maximum payment allowed."

a. For purposes of these provisions, the term general public does not include any person whose prescriptions are paid by third-party payors, including health insurers, governmental entities, and Louisiana Medicaid.

C. Federal Upper Payment Limits for Multiple Source Drugs

1. Except for drugs subject to "physician certification," the Medicaid Program shall utilize listings established by the Centers for Medicare and Medicaid Services (CMS) that identify and set upper limits for multiple source drugs that meet all of the following requirements:

a. All of the formulations of the drug approved by the Food and Drug Administration (FDA) have been evaluated as therapeutically equivalent in the most current edition of their publication, Approved Drug Products with

Therapeutic Equivalence Evaluations (including supplements or in successor publications).

b. At least three suppliers list the drug, which has been classified by the FDA as category "A" in the aforementioned publication based on listings contained in current editions (or updates) of published compendia of cost information for drugs available for sale nationally.

2. Medicaid shall utilize the maximum acquisition cost established by CMS in determining multiple source drug cost.

a. - c. Repealed.

3. The Medicaid Program shall provide pharmacists who participate in Medicaid reimbursement with updated lists reflecting:

a. the multiple source drugs subject to federal multiple source drug cost requirements;

b. the maximum reimbursement amount per unit; and

c. the date such costs shall become effective.

D. Physician Certifications

1. Limits on payments for multiple source drugs shall not be applicable when the prescriber certifies in his own handwriting that a specified brand name drug is medically necessary for the care and treatment of a recipient. Such certification may be written directly on the prescription or on a separate sheet which is dated and attached to the prescription. A standard phrase in the prescriber's handwriting, such as "brand necessary" will be acceptable.

2. Any practice which precludes the prescriber's handwritten statement shall not be accepted as a valid certification. Such practices include, but are not limited to:

a. a printed box on the prescription blank that could be checked by the prescriber to indicate brand necessity;

b. a handwritten statement transferred to a rubber stamp and then stamped on the prescription blank; or

c. preprinted prescription forms using a facsimile of the prescriber's handwritten statement.

E. Fee for Service 340B Purchased Drugs. The department shall make payments for self-administered drugs that are purchased by a covered entity through the 340B program at the actual acquisition cost which can be no more than the 340B ceiling price plus the professional dispensing fee, unless the covered entity has implemented the Medicaid carve-out option, in which case 340B drugs should not be billed to or reimbursed by Medicaid. 340B contract pharmacies shall not bill 340B stock to Medicaid. Fee-for-service outpatient hospital claims for 340B drugs shall use a cost to charge methodology on the interim cost report and settled during final cost settlement. Federally qualified health center (FQHC) and rural health clinic (RHC) claims for physician administered drugs shall be included in the all-inclusive T1015 encounter rate.

F. Federal Supply Schedule Drugs. Drugs acquired at federal supply schedule (FSS) and at a nominal price shall be reimbursed at actual acquisition cost plus a professional dispensing fee.

G. Indian Health Service All-Inclusive Encounter Rate. Pharmacy services provided by the Indian Health Service (IHS) shall be included in the encounter rate. No individual pharmacy claims shall be reimbursed to IHS providers.

H. Mail Order, Long-Term Care and Specialty Pharmacy. Drugs dispensed by mail order, long-term care and/or

specialty pharmacies (drugs not distributed by a retail community pharmacy) will be reimbursed using the brand/generic drug reimbursement methodology.

1. - 2.b.iv. Repealed.

I. Physician-Administered Drugs. Medicaid-covered physician-administered drugs shall be reimbursed according to the Louisiana professional services fee schedule. Reimbursement shall be determined utilizing the following methodology, and periodic updates to the rates shall be made in accordance with the approved Louisiana Medicaid State Plan provisions governing physician-administered drugs in a physician office setting.

1. Average sales price (ASP) plus 6 percent, for drugs appearing on the Medicare file.

2. Reimbursement rates for drugs that do not appear on the Medicare file shall be determined utilizing the following alternative methods:

a. the wholesale acquisition cost (WAC) of the drug, if available;

b. if there is no WAC available, the reimbursement rate will be 100 percent of the provider's current invoice for the dosage administered.

J. Clotting Factor. Pharmacy claims for clotting factor will be reimbursed using the brand/generic drug reimbursement methodology.

K. Investigational or Experimental Drugs. Investigational or experimental drugs shall not be reimbursed by Medicaid.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 32:1065 (June 2006), amended LR 34:88 (January 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 36:1561 (July 2010), amended by the Department of Health, Bureau of Health Services Financing, LR 43:1185 (June 2017), LR 43:1554 (August 2017), LR 44:1020 (June 2018), LR 45:

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

Family Impact Statement

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed Rule on the family has been considered. It is anticipated that this proposed Rule will have no impact on family functioning, stability and autonomy as described in R.S. 49:972.

Poverty Impact Statement

In compliance with Act 854 of the 2012 Regular Session of the Louisiana Legislature, the poverty impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will have no impact on child, individual, or family poverty in relation to individual or community asset development as described in R.S. 49:973.

Provider Impact Statement

In compliance with House Concurrent Resolution (HCR) 170 of the 2014 Regular Session of the Louisiana Legislature, the provider impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will

have no impact on the staffing level requirements or qualifications required to provide the same level of service and no direct or indirect cost to the provider to provide the same level of service. These provisions will have no impact the provider's ability to provide the same level of service as described in HCR 170.

Public Comments

Interested persons may submit written comments to Jen Steele, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030 or by email to MedicaidPolicy@la.gov. Ms. Steele is responsible for responding to inquiries regarding this proposed Rule. The deadline for submitting written comments is at close of business, 4:30 p.m., on April 1, 2019.

Public Hearing

Interested persons may submit a written request to conduct a public hearing either by U.S. mail to the Office of the Secretary ATTN: LDH Rulemaking Coordinator, Post Office Box 629, Baton Rouge, LA 70821-0629, fax to (225) 342-5568, or email to LDHRulemaking@la.gov; however, such request must be received no later than 4:30 p.m. on March 12, 2019. If the criteria set forth in R.S. 49:953(A)(2)(a) are satisfied, LDH will conduct a public hearing at 9:30 a.m. on March 28, 2019 in Room 118 of the Bienville Building, which is located at 628 North Fourth Street, Baton Rouge, LA. To confirm whether or not a public hearing will be held, interested persons should first call Stanley Bordelon at (225) 219-3454 after March 12, 2019. If a public hearing is to be held, all interested persons are invited to attend and present data, views, comments, or arguments, orally or in writing. In the event of a hearing, parking is available to the public in the Galvez Parking Garage which is located between North Sixth and North Fifth/North and Main Streets (cater-corner from the Bienville Building). Validated parking for the Galvez Garage may be available to public hearing attendees when the parking ticket is presented to LDH staff at the hearing.

Rebekah E. Gee MD, MPH
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Pharmacy Benefits Management Program—Federal Upper Payment Limits and Physician-Administered Drugs Reimbursement

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

It is anticipated that implementation of this proposed rule will have no programmatic fiscal impact to the state other than the cost of promulgation for FY 18-19. It is anticipated that \$1,188 (\$594 SGF and \$594 FED) will be expended in FY 18-19 for the state's administrative expense for promulgation of this proposed Rule and the final Rule.

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

It is anticipated that the implementation of this proposed Rule will have no effect on revenue collections other than the federal share of the promulgation costs for FY 18-19. It is anticipated that \$594 will be collected in FY 18-19 for the federal share of the expense for promulgation of this proposed Rule and the final Rule.

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

This proposed Rule provides technical amendments to the provisions governing reimbursement in the Pharmacy Benefits Management Program in order to: 1) reinstate the federal upper payment limits provisions that were erroneously repealed in the Notice of Intent published in the January 20, 2019 edition of the *Louisiana Register*; 2) align the reimbursement provisions in the administrative Rule for physician-administered drugs in a physician office setting with the language in the corresponding Medicaid State Plan Amendment approved by the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS); and 3) ensure that these provisions are appropriately promulgated in the Louisiana Administrative Code. It is anticipated that implementation of this proposed rule will not result in programmatic costs to the pharmacy program in FY 18-19, FY 19-20 and FY 20-21, but will be beneficial by providing accurate and clearly-defined reimbursement requirements for federal upper payment limits and physician-administered drugs in a physician office setting, in compliance with CMS requirements.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This Rule has no known effect on competition and employment.

Jen Steele
Medicaid Director
1902#035

Evan Brasseaux
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

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

**Support Coordination Providers
Licensing Standards (LAC 48:I.Chapter 49)**

The Department of Health, Bureau of Health Services Financing proposes to repeal and replace LAC 48:I.Chapter 49 as authorized by R.S. 36:254 and R.S. 40:2120.9. This proposed Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950, et seq.

The Department of Health, Bureau of Health Services Financing proposes to repeal the provisions of Title 48, Part I, Chapter 49 of the *Louisiana Administrative Code* governing case management licensing standards and replace with provisions governing the licensing of support coordination providers to ensure that these provisions are consistent with other health care licensing requirements and are promulgated in a clear and concise manner in the *Louisiana Administrative Code*.

Title 48

PUBLIC HEALTH—GENERAL

Part I. General Administration

Subpart 3. Licensing and Certification

Chapter 49. Support Coordination Providers

Licensing Standards

Subchapter A. General Provisions

§4901. Introduction

A. Pursuant to the provisions of R.S. 40:2120.9, the Department of Health hereby establishes the minimum licensing standards for support coordination (SC) providers, previously known and licensed as Case Management

agencies. These licensing provisions contain the minimum requirements for SC providers and are separate and apart from any other requirements established by the Medicaid Program for reimbursement purposes. These regulations do not apply to:

1. managed care organizations (MCOs) contracted by the Department of Health (the department) to provide specified Medicaid benefits and services to eligible children and adults enrolled in Louisiana Medicaid; and

2. support coordination agencies that only provide SC services to the Department of Health, Office of Aging and Adult Services (OAAS) waiver programs participants.

B. Any person or entity applying for an SC provider license or who is operating as a provider of support coordination services shall meet all of the licensing requirements contained in this Chapter to achieve or maintain licensure.

C. This Chapter repeals and replaces the previous case management (CM) licensing standards and is effective upon promulgation for new providers of support coordination services and one year from the effective date of promulgation upon renewal of current providers' CM licensure.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2120.9.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 45:

§4903. Definitions

Cessation of Business—provider is non-operational and/or has stopped offering or providing services to the community.

Change of Ownership (CHOW)—the sale or transfer of all or a portion of the assets or other equity interest of an SC provider.

Client—an individual who is receiving services from a licensed SC provider.

Department—the Louisiana Department of Health (LDH) or any of its sections, bureaus, offices or its contracted designee.

Employed—performance of a job or task for compensation, such as wages or a salary. An employed person may be one who is contracted or one who is hired for a staff position.

Geographic Location—the LDH region in which the primary business location of the provider agency operates.

Governing Body—the person or group of persons who have legal authority for and/or ownership of the corporation of the Support Coordination agency and responsibility for agency operations. A governing body assumes full legal authority and responsibility for the operation of the agency.

Health Standards Section (HSS)—the licensing and certification section of the Department of Health.

Individual Service Plan (ISP)—a service plan developed for each client that is based on a comprehensive assessment and/or plan of care (CPOC) which identifies the individual's strengths and needs in order to establish goals and objectives so that outcomes to service delivery can be measured. This plan of care and services may be referred to by another program specific name, as applicable.

LDH Region—the geographic administrative regions designated by the Department of Health.

Non-Operational—the SC provider location is not open for business operation on designated days and hours as

stated on the licensing application and business location signage.

Service Area—the LDH administrative region in which the provider’s geographic business location is located and for which the license is issued.

Support Coordination—services provided to individuals to assist them in gaining access to the full range of needed services including:

1. medical;
2. social;
3. developmental/educational; and
4. other supports services as stipulated by the department.

Support Coordination Provider—an agency licensed to provide support coordination services according to the requirements herein.

Support Coordinator—an individual employed by a licensed support coordination provider who utilizes an organized, coordinated system or process to assist clients in gaining access to a full range of needed services. This system shall be accomplished through the following activities:

1. intake;
2. assessment/reassessment;
3. service planning;
4. linkage;
5. monitoring/follow-up; and
6. transition/closure.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2120.9.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 45:

§4905. Licensure Requirements

A. All SC providers shall be licensed by the Department of Health except as indicated in §4901.A.1-2 of this Chapter. It shall be unlawful to operate as a support coordination services provider without a license issued by the department. The LDH is the only licensing authority for SC providers in Louisiana.

B. An SC provider license shall:

1. be issued only to the individual or entity named in the license application;
2. be valid only for the SC provider to which it is issued and only for the specific geographic address of that provider;
3. enable the provider to render support coordination services in the LDH region specified in the approved licensing application;
4. be valid for one year from the date of issuance, unless revoked, suspended, modified or terminated prior to that date, or unless a provisional license is issued;
5. expire on the last day of the twelfth month after the date of issuance, unless timely renewed by the SC provider;
6. not be subject to sale, assignment, donation or other transfer, whether voluntary or involuntary; and
7. be posted in a conspicuous place on the licensed premises at all times.

C. The SC provider shall provide services only to those client populations:

1. specified on its license; and
2. residing in the provider’s designated service area, LDH region and the provider’s licensed location.

D. In order for the SC provider to be considered operational and retain licensed status, the provider shall meet the following conditions.

1. Each SC provider shall have a business location which shall not be located in an occupied personal residence and shall be in accordance with the following:

a. The identified business location shall be part of the licensed location of the SC provider and shall be in the LDH Region for which the license is issued.

b. The business location shall have at least one employee on duty at the business location during the days and hours of operation as stated on the licensing application and business location signage.

2. Each SC provider shall have at least one published business telephone number. Calls shall be returned within one business day.

3. Each SC provider shall have an accessible, monitored, and SC agency specific e-mail address.

E. A separately licensed SC provider shall not use a name which is substantially the same as the name of another SC provider licensed by the department. An SC provider shall not use a name which is likely to mislead the client or family into believing it is owned, endorsed or operated by the State of Louisiana, as determined by the department.

F. The licensed SC provider shall abide by and adhere to any state law, rule, policy, procedure, manual or memorandum applicable to SC providers.

G. If applicable, the SC provider shall obtain facility need review approval prior to initial licensing.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2120.9.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 45:

§4907. Initial Licensure Application Process

A. An initial application for licensing as an SC provider shall be obtained from the department. A completed initial license application packet for support coordination provider services shall be submitted to and approved by the department prior to an applicant providing SC services.

B. The initial licensing application packet shall include:

1. a completed support coordination provider licensure application and the non-refundable licensing fee as established by the department;
2. a copy of a statewide criminal background check conducted by the Louisiana State Police or its designee, including sex offender registry status, on all owners and administrators;
3. proof of financial viability, comprised of the following:
 - a. general and professional liability insurance; and
 - b. worker’s compensation insurance;
4. a completed disclosure of ownership and control information form;
5. the days and hours of operation;
6. an organizational chart and names, including position titles, of key administrative personnel and governing body;
7. an 8x10 inch floor sketch of the office premises;
8. approval from the local fire authority for the building;
9. approval from the Office of Public Health (OPH) for occupancy; and

10. any other documentation or information required by the department and applicable for licensure.

C. Any person convicted of, or who has entered a plea of guilty or nolo contendere to, one of the following felonies is prohibited from being the owner or the administrator of an SC provider agency. A licensing application shall be denied by the department if an owner or administrator of an SC provider agency has a felony conviction or has entered a plea of guilty or nolo contendere to a felony related to one of the following:

1. the violence, abuse, or negligence of a person;
2. the misappropriation of property belonging to another person;
3. cruelty, exploitation or the sexual battery of the infirmed;
4. a drug offense;
5. crimes of a sexual nature;
6. crimes involving a firearm or deadly weapon;
7. Medicare or Medicaid fraud; or
8. fraud or misappropriation of federal or state funds.

D. If the initial licensing packet is incomplete, the applicant shall be notified of the missing information and shall have 90 days from receipt of the notification to submit the required information.

1. If the required information is not submitted to the department within 90 days from receipt of the notification, the application shall become null and void.

2. If an initial licensing application is closed, an applicant who remains interested in becoming an SC provider shall submit a new initial licensing packet with a new initial licensing fee to start the initial licensing process again, subject to any facility need review approval, if applicable.

E. Prior to scheduling the initial survey, applicants for SC licensure shall be:

1. fully operational;
2. in compliance with all SC licensing standards contained in this chapter;
3. in compliance with all applicable federal, state, and local laws and regulations; and
4. paid in full relative to all applicable fees.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2120.9.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 45:

§4909. Initial Licensing Surveys

A. Prior to the initial license being issued, an initial on-site licensing survey will be conducted to ensure compliance with the SC licensing standards.

B. In the event that the initial licensing survey finds that the SC provider is compliant with licensing laws, regulations and other required statutes, laws, ordinances, rules, regulations, and fees, the department shall issue a full license to the provider. The license shall be valid until the expiration date shown on the license, unless the license is modified, revoked, suspended or terminated.

C. In the event that the initial licensing survey finds that the SC provider is noncompliant with any licensing regulations, or any other required rules or regulations and without systems of operation in place that present a potential threat to the health, safety, or welfare of the clients to be served, the department may deny the initial license.

D. In the event that the initial licensing survey finds that the SC provider is noncompliant with any licensing laws or regulations, or any other required rules or regulations, but the department in its sole discretion determines that the noncompliance does not present a threat to the operation of the agency or to the health, safety or welfare of the clients to be served, the department may issue a provisional initial license for a period not to exceed six months. The provider shall submit a plan of correction to the department for approval, and the provider shall be required to correct all such noncompliance or deficiencies prior to the expiration of the provisional license.

1. If all such noncompliance or deficiencies are corrected on the follow-up survey, a full license may be issued.

2. If all such noncompliance or deficiencies are not corrected on the follow-up survey, or new deficiencies affecting the health, safety or welfare of a client are cited, the provisional license shall expire and the applicant shall be required to begin the initial licensing process again by submitting a new initial license application packet and the appropriate licensing fee.

E. The initial licensing survey of an SC provider shall be an announced survey. Follow-up surveys to the initial licensing surveys are unannounced surveys.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2120.9.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 45:

§4911. Types of Licenses and Expiration Dates

A. The department shall have the authority to issue the following types of licenses:

1. Full Initial License. The department shall issue a full license to the SC provider when the initial licensing survey finds that the provider is compliant with all applicable licensing laws and regulations, and is compliant with all other applicable required statutes, laws, ordinances, rules, regulations and fees. The license shall be valid until the expiration date shown on the license, unless the license is modified, revoked, suspended or terminated.

2. Provisional Initial License. The department may issue a provisional initial license to the SC applicant when the initial licensing survey finds that the SC provider is noncompliant with any applicable licensing laws or regulations or any other applicable required statutes, laws, ordinances, rules, regulations or fees, but the department determines that the noncompliance does not present a threat to the health, safety, or welfare of the clients.

3. Full Renewal License. The department may issue a full renewal license to an existing licensed SC provider who is in substantial compliance with all applicable federal, state, departmental and local statutes, laws, ordinances, rules, regulations and fees. The license shall be valid until the expiration date shown on the license, unless the license is modified, revoked, suspended or terminated.

B. The department, in its sole discretion, may issue a provisional license to an existing licensed SC provider for a period not to exceed six months. The department will consider the following circumstances in making a determination to issue a provisional license:

1. compliance history of the provider;
2. the number and acuity of substantiated complaints;

3. the SC provider has been issued a deficiency that involved placing a client at risk for serious harm or death;

4. the SC provider has failed to correct deficient practices within 60 days of being cited for such deficient practices or at the time of a follow-up survey; or

5. the SC provider is not in substantial compliance with applicable federal, state, departmental and local statutes, laws, ordinances, rules, regulations, and fees.

C. When the department issues a provisional license to an existing licensed SC provider, the provider shall submit a plan of correction to the HSS for approval, and the provider shall be required to correct such noncompliance or deficiencies prior to the expiration of the provisional license. The department shall conduct a follow-up survey, either on-site or by desk review, of the SC provider prior to the expiration of the provisional license.

1. If the follow-up survey determines that the SC provider has corrected the deficient practices and has maintained compliance during the period of the provisional license, the department may issue a full license for the remainder of the year until the anniversary date of the SC license.

2. If the follow-up survey determines that the non-compliance or deficiencies have not been corrected, or if new deficiencies that are a threat to the health, safety or welfare of a client are cited on the follow-up survey, the provisional license may expire on its face.

3. The department shall issue written notice to the SC provider of the results of the follow-up survey.

D. If an existing licensed SC provider has been issued a notice of license revocation or termination, and the provider's license is due for annual renewal, the department shall deny the license renewal application and shall not issue a renewal license.

1. If a timely administrative appeal has been filed by the provider regarding the license revocation, suspension, or termination, the administrative appeal shall be suspensive, and the provider shall be allowed to continue to operate and provide services until such time as the administrative tribunal or department issues a decision on the license revocation, suspension, or termination.

2. If the secretary of the department determines that the violations of the SC provider pose an imminent or immediate threat to the health, welfare, or safety of a client, the imposition of such action may be immediate and may be enforced during the pendency of the administrative appeal. If the secretary of the department makes such a determination, the SC provider will be notified in writing.

3. The denial of the license renewal application does not affect in any manner the license revocation, suspension, or termination.

E. The renewal of a license does not in any manner affect any sanction, civil monetary penalty or other action imposed by the department against the provider.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2120.9.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 45:

§4913. Changes in Licensee Information or Personnel

A. An SC license shall be valid only for the person or entity named in the license application and only for the specific geographic address listed on the license application.

B. Any change regarding the SC provider's entity name, doing business as (DBA) name, mailing address, telephone number or any combination thereof, shall be reported in writing to HSS within five working days of the change.

C. Any change regarding the SC provider's key administrative personnel, e.g. the administrator, shall be reported in writing to HSS within 10 working days subsequent to the change and shall include the following:

1. name;
2. address;
3. hire date; and
4. qualifications.

D. A change of ownership (CHOW) of the SC provider shall be reported in writing to the department within five working days subsequent to the change. The license of an SC provider is not transferable or assignable and cannot be sold. The new owner shall submit the legal CHOW document, all documents required for a new license and the applicable licensing fee. Once all application requirements are met and approved by the department, a new license shall be issued to the new owner.

1. An SC provider that is under license revocation or provisional licensure may not undergo a CHOW.

2. If the CHOW results in a change of geographic address, an on-site survey may be required prior to issuance of the new license.

E. If the SC provider changes its name without a change in ownership, the SC provider shall report such change to the department in writing at least five working days prior to the change. The change in the SC provider name requires the issuance of a new SC provider license in the new name of the provider. Payment of the applicable fee is required to re-issue the license.

F. Any request for a duplicate license shall be accompanied by the required applicable fee.

G. If the SC provider changes the physical address of its geographic location without a change in ownership, the SC provider shall:

1. report such change to HSS in writing at least five working days prior to the change;
2. submit a new licensing application; and
3. pay the full licensing fee resulting in a new anniversary date;

NOTE: An on-site survey may be required prior to the issuance of the new license.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2120.9.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 45:

§4915. Renewal of License

A. The SC provider shall submit a completed license renewal application packet to the department at least 30 days prior to the expiration of the current license. The license renewal application packet shall include:

1. the completed license renewal application;
2. the non-refundable license renewal fee; and
3. any other documentation required by the department.

B. The department may perform an on-site survey and inspection upon annual renewal of a license.

C. Failure to submit a completed license renewal application packet prior to the expiration of the current

license will result in the voluntary non-renewal of the SC license.

D. A CHOW shall not be conducted concurrent to the renewal of license. The renewal of the license shall be completed by the SC provider prior to processing of the CHOW packet by the department for the new provider.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2120.9.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 45:

§4917. Survey Activities

A. The department, or its designee, may conduct periodic licensing surveys and other surveys as deemed necessary to ensure compliance with all laws, rules and regulations governing SC providers and to ensure client health, safety and welfare. These surveys may be conducted on-site or by administrative review and shall be unannounced.

B. The department shall also conduct complaint surveys. The complaint surveys shall be conducted in accordance with R.S. 40:2009.13, et seq.

C. The department may require an acceptable plan of correction from a provider for any survey where deficiencies have been cited, regardless of whether the department takes other action against the provider for the deficiencies cited in the survey. The acceptable plan of correction shall be approved by the department.

D. A follow-up survey may be conducted for any survey where deficiencies have been cited to ensure correction of the deficient practices.

E. The department may issue appropriate sanctions for noncompliance, deficiencies and violations of law, rules and regulations. Sanctions include, but are not limited to:

1. civil monetary penalties;
2. directed plans of correction; and
3. license revocation.

F. LDH surveyors and staff shall be:

1. given access to all areas of the provider agency, as necessary, and all relevant files during any survey; and
2. allowed to interview any provider staff, client or other persons as necessary or required to conduct the survey.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2120.9.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 45:

§4919. Statement of Deficiencies

A. The following statements of deficiencies issued by the department to the SC provider shall be posted in a conspicuous place on the licensed premises:

1. the most recent full licensing survey statement of deficiencies; and
2. any subsequent complaint survey statement of deficiencies.

B. Any statement of deficiencies issued by the department to an SC provider shall be available for disclosure to the public 30 days after the provider submits an acceptable plan of correction to the deficiencies or 90 days after the statement of deficiencies is issued to the provider, whichever occurs first.

C. Unless otherwise provided in statute or in these licensing provisions, an SC provider shall have the right to an informal reconsideration of any deficiencies cited as a result of a survey or investigation.

1. Correction of the violation, noncompliance or deficiency shall not be the basis for the reconsideration.

2. The informal reconsideration of the deficiencies shall be requested in writing within 10 calendar days of receipt of the statement of deficiencies, unless otherwise provided in these standards.

3. The request for informal reconsideration of the deficiencies shall be made to the department's Health Standards Section and will be considered timely if received by HSS within 10 calendar days of the provider's receipt of the statement of deficiencies.

4. If a timely request for an informal reconsideration is received, the department shall schedule and conduct the informal reconsideration.

5. The provider shall be notified in writing of the results of the informal reconsideration.

6. Except as provided for complaint surveys pursuant to R.S. 40:2009.13 et seq., and as provided in these licensing provisions for license denials, revocations and denial of license renewals, the decision of the informal reconsideration team shall be the final administrative decision.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2120.9.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 45:

§4921. Denial of License, Revocation of License, Denial of License Renewal

A. The department may deny an application for an initial license or a license renewal, or may revoke a license in accordance with the provisions of the Administrative Procedure Act.

B. Denial of an Initial License

1. The department may deny an initial license in the event that the initial licensing survey finds that the SC provider applicant is noncompliant with any applicable licensing laws or regulations, or any other required statutes or regulations that present a potential threat to the health, safety or welfare of the clients.

2. The department may deny an initial license for any of the reasons a license may be revoked or denied renewal pursuant to these licensing standards.

C. Voluntary Non-Renewal of a License. If a provider fails to timely renew its license, the license expires on its face and is considered voluntarily surrendered. There are no appeal rights for such surrender or non-renewal of the license, as this is a voluntary action on the part of the provider.

D. Revocation of License or Denial of License Renewal. An SC provider license may be revoked or denied renewal for any of the following reasons, including but not limited to:

1. failure to be in substantial compliance with the SC licensing laws, rules and regulations;
2. failure to be in substantial compliance with other required statutes, laws, ordinances, rules or regulations;
3. failure to comply with the terms and provisions of a settlement agreement or educational letter;
4. failure to uphold client rights whereby deficient practices result in harm, injury or death of a client;
5. failure to protect a client from a harmful act of an employee or other client including, but not limited to:

- a. mental or physical abuse, neglect, exploitation or extortion;
 - b. any action posing a threat to a client's health and safety;
 - c. coercion;
 - d. threat or intimidation;
 - e. harassment; or
 - f. criminal activity;
6. failure to notify the proper authorities, as required by federal or state law or regulations, of all suspected cases of the acts outlined in Paragraph D.5 of this section;
7. knowingly making a false statement in any of the following areas, including but not limited to:
- a. application for initial license or renewal of license;
 - b. data forms;
 - c. clinical records, client records or provider records;
 - d. matters under investigation by the department or the Office of the Attorney General; or
 - e. information submitted for reimbursement from any payment source;
8. knowingly making a false statement or providing false, forged or altered information or documentation to LDH employees or to law enforcement agencies;
9. the use of false, fraudulent or misleading advertising; or
10. an owner, officer, member, manager, administrator, director or person designated to manage or supervise client care has pled guilty or nolo contendere to a felony, or has been convicted of a felony, as documented by a certified copy of the record of the court;
- a. for purposes of these provisions, conviction of a felony involves any felony conviction relating to:
 - i. the violence, abuse, or negligence of a person;
 - ii. the misappropriation of property belonging to another person;
 - iii. cruelty, exploitation or the sexual battery of the infirmed;
 - iv. a drug offense;
 - v. crimes of a sexual nature;
 - vi. a firearm or deadly weapon;
 - vii. Medicare or Medicaid fraud; or
 - viii. fraud or misappropriation of federal or state funds;
11. failure to comply with all reporting requirements in a timely manner, as required by the department;
12. failure to allow or refusal to allow the department to conduct an investigation or survey or to interview provider staff or clients;
13. interference with the survey process, including but not limited to, harassment, intimidation, or threats against the survey staff;
14. failure to allow or refusal to allow access to provider, facility or client records by authorized departmental personnel;
15. bribery, harassment, intimidation or solicitation of any client designed to cause that client to use or retain the services of any particular SC provider;
16. failure to repay an identified overpayment to the department or failure to enter into a payment agreement to repay such overpayment; or

17. failure to timely pay outstanding fees, fines, sanctions or other debts owed to the department.

E. In the event that an SC provider license is revoked, renewal is denied, or the license is surrendered in lieu of an adverse action, any owner, board member, director or administrator, and any other person named on the license application of such SC provider is prohibited from owning, managing, directing or operating another SC agency for a period of two years from the date of the final disposition of the revocation, denial of renewal action, or surrender.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2120.9.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 45:

§4923. Notice and Appeal of License Denial, License Revocation and Denial of License Renewal

A. Notice of a license denial, license revocation or denial of license renewal shall be given to the provider in writing.

B. The SC provider has a right to an informal reconsideration of the license denial, license revocation or denial of license renewal. There is no right to an informal reconsideration of a voluntary non-renewal or surrender of a license by the provider.

1. The SC provider shall request the informal reconsideration within 15 calendar days of the receipt of the notice of the license denial, license revocation, or denial of license renewal. The request for informal reconsideration shall be in writing and shall be forwarded to the department's Health Standards Section. The request for informal reconsideration shall be considered timely if received by the Health Standards Section within 15 calendar days from the provider's receipt of the notice.

2. The request for informal reconsideration shall include any documentation that demonstrates that the determination was made in error.

3. If a timely request for an informal reconsideration is received by HSS, an informal reconsideration shall be scheduled and the provider will receive written notification of the date of the informal reconsideration.

4. The provider shall have the right to appear in person at the informal reconsideration and may be represented by counsel.

5. Correction of a violation or deficiency which is the basis for the license denial, revocation or denial of license renewal shall not be a basis for reconsideration.

6. The informal reconsideration process is not in lieu of the administrative appeals process.

7. The provider will be notified in writing of the results of the informal reconsideration.

C. The SC provider has a right to an administrative appeal of the license denial, license revocation or denial of license renewal. There is no right to an administrative appeal of a voluntary non-renewal or surrender of a license by the provider.

1. The SC provider shall request the administrative appeal within 30 days of the receipt of the results of the informal reconsideration.

- a. The SC provider may forego its rights to an informal reconsideration, and if so, shall request the administrative appeal within 30 days of the receipt of the notice of the license denial, revocation or denial of license renewal.

2. The request for administrative appeal shall be in writing and shall be submitted to the Division of Administrative Law, or its successor. The request shall include any documentation that demonstrates that the determination was made in error and shall include the basis and specific reasons for the appeal.

3. If a timely request for an administrative appeal is received by the Division of Administrative Law, or its successor, the administrative appeal of the license revocation or denial of license renewal shall be suspensive, and the provider shall be allowed to continue to operate and provide services until such time as the Division of Administrative Law, or its successor, issues a final administrative decision.

a. If the secretary of the department determines that the violations of the provider pose an imminent or immediate threat to the health, welfare or safety of a client, the imposition of the license revocation or denial of license renewal may be immediate and may be enforced during the pendency of the administrative appeal. If the secretary of the department makes such a determination, the provider will be notified in writing.

4. correction of a violation or a deficiency which is the basis for the denial, revocation or denial of license renewal shall not be a basis for an administrative appeal.

D. If an existing licensed SC provider has been issued a notice of license revocation, and the provider's license is due for annual renewal, the department shall deny the license renewal application. The denial of the license renewal application does not affect, in any manner, the license revocation.

E. If a timely administrative appeal has been filed by the provider on a license denial, denial of license renewal or license revocation, the Division of Administrative Law, or its successor, shall conduct the hearing in accordance with the Administrative Procedures Act.

1. If the final decision is to reverse the license denial, denial of license renewal, or license revocation, the provider's license will be re-instated or granted upon the payment of any licensing fees, outstanding sanctions or other fees due to the department.

2. If the final decision is to affirm the license denial of renewal or license revocation, the provider shall discharge any and all clients receiving services according to the provisions of this Chapter.

a. Within 10 calendar days of the final decision, the provider shall notify HSS, in writing, of the secure and confidential location where the client records will be securely stored and the contact information for the custodian of said records.

F. There is no right to an informal reconsideration or an administrative appeal of the issuance of a provisional initial license to a new SC provider, or the issuance of a provisional license to an existing SC provider. A provider who has been issued a provisional license is licensed and operational for the term of the provisional license. The issuance of a provisional license is not considered to be a denial of license, denial of license renewal, or revocation of licensure.

G. A provider with a provisional initial license or an existing provider with a provisional license that expires due to noncompliance or deficiencies cited at the follow-up survey, shall have the right to an informal reconsideration

and the right to an administrative appeal, as to the validity of the deficiencies.

1. The correction of a violation, noncompliance or deficiency after the follow-up survey shall not be the basis for the informal reconsideration or for the administrative appeal.

2. The informal reconsideration and the administrative appeal are limited to whether the deficiencies were properly cited at the follow-up survey.

3. The provider shall request the informal reconsideration in writing, which shall be received by the Health Standards Section within five calendar days of receipt of the notice of the results of the follow-up survey from the department.

4. The provider shall request the administrative appeal within 15 calendar days of receipt of the notice of the results of the follow-up survey from the department. The request for administrative appeal shall be in writing and shall be submitted to the Division of Administrative Law, or its successor.

5. A provider with a provisional initial license or an existing provider with a provisional license that expires under the provisions of this Chapter shall cease providing services and discharge clients unless the Division of Administrative Law, or its successor, issues a stay of the expiration.

a. The stay may be granted by the Division of Administrative Law, or its successor, upon application by the provider at the time the administrative appeal is filed and only after a contradictory hearing and only upon a showing that there is no potential harm to the clients being served by the provider.

6. If a timely administrative appeal has been filed by a provider with a provisional initial license that has expired, or by an existing provider whose provisional license has expired under the provisions of this Chapter, the Division of Administrative Law, or its successor, shall conduct the hearing in accordance with the Administrative Procedure Act.

a. If the final decision is to remove all deficiencies, the provider's license will be re-instated upon the payment of any outstanding sanctions and licensing or other fees due to the department.

b. If the final decision is to uphold the deficiencies and affirm the expiration of the provisional license, the provider shall discharge any and all clients receiving services.

i. Within 10 calendar days of the final decision, the provider shall notify HSS in writing of the secure and confidential location where the client records will be stored.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2120.9.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 45:

§4925. Inactivation of License due to a Declared Disaster or Emergency

A. An SC provider licensed in a parish which is the subject of an executive order or proclamation of emergency or disaster issued in accordance with R.S. 29:724 or R.S. 29:766 may seek to inactivate its license for a period not to exceed one year, provided that the following conditions are met:

1. the licensed provider shall submit written notification to HSS within 60 days of the date of the executive order or proclamation of emergency or disaster that:

a. the SC provider has experienced an interruption in the provisions of services as a result of events that are the subject of such executive order or proclamation of emergency or disaster issued in accordance with R.S. 29:724 or R.S. 29:766;

b. the licensed SC provider intends to resume operation as an SC provider in the same service area;

c. includes an attestation that the emergency or disaster is the sole causal factor in the interruption of the provision of services;

d. includes an attestation that all clients have been properly discharged or transferred to another provider; and

e. provides a list of each client and where that client is discharged or transferred to;

2. the licensed SC provider resumes operating as an SC provider in the same service area within one year of the issuance of an executive order or proclamation of emergency or disaster in accordance with R.S. 29:724 or R.S. 29:766;

3. the licensed SC provider continues to pay all fees and costs due and owed to the department including, but not limited to, licensing fees and outstanding civil monetary penalties; and

4. the licensed SC provider continues to submit required documentation and information to the department.

B. Upon receiving a completed written request to inactivate an SC provider license, the department shall issue a notice of inactivation of license to the SC provider.

C. Upon completion of repairs, renovations, rebuilding or replacement, an SC provider which has received a notice of inactivation of its license from the department shall be allowed to reinstate its license upon the following conditions being met.

1. The SC provider shall submit a written license reinstatement request to the licensing section of the department 60 days prior to the anticipated date of reopening.

a. The license reinstatement request shall inform the department of the anticipated date of opening, and shall request scheduling of a licensing survey.

b. The license reinstatement request shall include a completed licensing application with applicable required licensing fees.

2. The provider resumes operating as an SC provider in the same service area within one year.

D. Upon receiving a completed written request to reinstate an SC provider license, the department may conduct a licensing survey. If the SC provider meets the requirements for licensure and the requirements under this Section, the department shall issue a notice of reinstatement of the SC provider license.

E. No change of ownership in the SC provider shall occur until such SC provider has completed repairs, renovations, rebuilding or replacement construction, and has resumed operations as an SC provider.

F. The provisions of this Section shall not apply to an SC provider which has voluntarily surrendered its license and ceased operation.

G. Failure to comply with any of the provisions of this Section shall be deemed a voluntary surrender of the SC provider license and any applicable facility need review approval for licensure.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2120.9.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 45:

§4927. Inactivation of License due to a Non-Declared Disaster or Emergency

A. A licensed SC provider in an area or areas which have been affected by a non-declared emergency or disaster may seek to inactivate its license, provided that the following conditions are met:

1. the licensed SC provider shall submit written notification to HSS within 30 days of the date of the non-declared emergency or disaster stating that:

a. the SC provider has experienced an interruption in the provisions of services as a result of events that are due to a non-declared emergency or disaster;

b. the licensed SC provider intends to resume operation as an SC provider in the same service area;

c. the licensed SC provider attests that the emergency or disaster is the sole causal factor in the interruption of the provision of services; and

d. the licensed SC provider's initial request to inactivate does not exceed one year for the completion of repairs, renovations, rebuilding or replacement of the facility.

NOTE: Pursuant to these provisions, an extension of the 30 day deadline for initiation of request may be granted at the discretion of the department.

2. the licensed SC provider continues to pay all fees and costs due and owed to the department including, but not limited to, required licensing fees and outstanding civil monetary penalties and/or civil fines; and

3. the licensed SC provider continues to submit required documentation and information to the department, including but not limited to cost reports.

B. Upon receiving a completed written request to temporarily inactivate an SC license, the department shall issue a notice of inactivation of license to the SC provider.

C. Upon the provider's receipt of the department's approval of request to inactivate the provider's license, the provider shall have 90 days to submit plans for the repairs, renovations, rebuilding or replacement of the facility, if applicable, to the Office of the State Fire Marshal (OSFM) and OPH as required.

D. The licensed SC provider shall resume operating as an SC provider in the same service area within one year of the approval of renovation/construction plans by OSFM and OPH as required.

Exception: If the provider requires an extension of this timeframe due to circumstances beyond the provider's control, the department will consider an extension of the time period to complete construction or repairs. Such written request for extension shall show provider's active efforts to complete construction or repairs and the reasons for request for extension of provider's inactive license. Any approval for extension is at the sole discretion of the department.

E. Upon completion of repairs, renovations, rebuilding or replacement of the building, an SC provider which has received a notice of inactivation of its license from the

department shall be allowed to reinstate its license upon the following conditions being met:

1. the SC provider shall submit a written license reinstatement request to the licensing section of the department;

2. the license reinstatement request shall inform the department of the anticipated date of opening and shall request scheduling of a licensing or physical environment survey, where applicable; and

3. the license reinstatement request shall include a completed licensing application with appropriate licensing fees.

F. Upon receiving a completed written request to reinstate an SC provider license, the department may conduct a licensing or physical environment survey. The department may issue a notice of reinstatement if the provider has met the requirements for licensure including the requirements of this Section.

G. No change of ownership shall occur until such SC provider has completed repairs, renovations, rebuilding or replacement construction and has resumed operations as an SC provider.

H. The provisions of this Section shall not apply to an SC provider which has voluntarily surrendered its license and ceased operation.

I. Failure to comply with any of the provisions of this Section shall be deemed a voluntary surrender of the SC provider license.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2120.9.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 45:

§4929. Cessation of Business

A. Except as provided in §4925 and §4927 of these licensing regulations, a license shall be immediately null and void if an SC provider becomes non-operational.

B. A cessation of business is deemed to be effective the date on which the SC provider ceased offering or providing services to the community and/or is considered non-operational.

C. Upon the cessation of business, the SC provider shall immediately return the original license to the department.

D. Cessation of business is deemed to be a voluntary action on the part of the provider. The SC provider does not have a right to appeal the closure of a license due to a cessation of business.

E. Prior to the effective date of the closure or cessation of business, the SC provider shall:

1. give 30 days' advance written notice to:
 - a. each client or client's legal representative, if applicable;
 - b. each client's physician;
 - c. the LDH HSS;
 - d. the LDH Office for Citizens with Developmental Disabilities (OCDD);
 - e. the LDH Office of Aging and Adult Services (OAAS); and/or
 - f. other licensed programs, as applicable.

2. provide for a safe and orderly discharge and transition for each of the SC provider's clients in accordance with the SC provider's discharge policy and in accordance with applicable statutes and regulations.

F. In addition to the advance notice, the SC provider shall submit a written plan for the disposition of client services related records for approval by the department. The plan shall include the following:

1. the effective date of the closure;
2. provisions that comply with federal and state laws on storage, maintenance, access and confidentiality of the closed provider's patients' medical records;
3. the name and contact information for the appointed custodian(s) who shall provide the following:
 - a. access to records and copies of records to the patient or authorized representative, upon presentation of proper authorization(s); and
 - b. physical and environmental security that protects the records against fire, water, intrusion, unauthorized access, loss and destruction.

G. If an SC provider fails to follow these procedures, the owners, managers, officers, directors and administrators may be prohibited from opening, managing, directing, operating or owning an SC provider for a period of two years.

H. Once any SC provider has ceased doing business, the provider shall not provide services until the SC provider has obtained a new initial SC provider license.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2120.9.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 45:

§4931. Emergency Preparedness

A. A disaster or emergency may be a local, community-wide, regional or statewide event. Disasters or emergencies may include, but are not limited to:

1. tornados;
2. fires;
3. floods;
4. hurricanes;
5. power outages;
6. chemical spills;
7. biohazards;
8. train wrecks; or
9. declared health crisis.

B. Support coordination providers shall ensure that each client has an individual plan for dealing with emergencies and disasters and shall assist clients in identifying the specific resources available through family, friends, the neighborhood and the community.

C. Continuity of Operations. The SC provider shall have an emergency preparedness plan to maintain continuity of the provider's operations in preparation for, during and after an emergency or disaster. The plan shall be designed to manage the consequences of all hazards, declared disasters or other emergencies that disrupt the provider's ability to render support coordination services, or threatens the lives or safety of the provider's clients.

D. The provider shall follow and execute its emergency preparedness plan in the event of the occurrence of a declared disaster or other emergency.

E. If the state, parish or local Office of Homeland Security and Emergency Preparedness (OHSEP) orders a mandatory evacuation of the parish or the area in which the provider is serving, the provider shall ensure that all clients are evacuated according to the client's individual plan and the provider's emergency preparedness plan.

F. Emergency Plan Review and Summary. The provider shall review and update its emergency preparedness plan, as well as each client's emergency plan at least annually.

G. The provider shall cooperate with the department and with the local or parish OHSEP in the event of an emergency or disaster and shall provide information as requested.

H. The provider shall monitor weather warnings and watches as well as evacuation orders from local and state emergency preparedness officials.

I. All provider employees shall be trained in emergency or disaster preparedness. Training shall include orientation, ongoing training and participation in planned drills for all personnel.

J. Upon request by the department, the SC provider shall submit a copy of its emergency preparedness plan and a written summary attesting how the plan was followed and executed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2120.9.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 45:

Subchapter B. Administration and Organization

§4937. Governing Body

A. The SC provider shall have an identifiable governing body with responsibility for and authority over the policies and activities of the program/agency.

1. The SC provider shall have documents identifying all members of the governing body, their addresses, their terms of membership, officers of the governing body and terms of office of any officers.

2. The governing body shall be comprised of one or more persons and shall hold formal meetings at least twice a year.

3. There shall be written minutes of all formal meetings of the governing body and by-laws specifying frequency of meetings and quorum requirements.

B. The governing body of an SC provider shall:

1. ensure the provider's continual compliance and conformity with all relevant federal, state, local and municipal laws and regulations;

2. ensure that the provider is adequately funded and fiscally sound;

3. review and approve the provider's annual budget;

4. designate a person to act as administrator and delegate sufficient authority to this person to manage the agency;

5. formulate and annually review, in consultation with the administrator, written policies concerning the philosophy, goals, current services, personnel practices, job descriptions and fiscal management of the agency;

6. annually evaluate the administrator's performance;

7. have the authority to dismiss the administrator;

8. meet with designated representatives of the department whenever required to do so;

9. inform the Health Standards Section prior to initiating any substantial changes in the nature and scope of services provided by the SC provider; and

10. ensure accessibility of the administrator who shall be:

a. available in person or by telecommunication for all aspects of provider operation; or

b. designate in writing an individual to assume the authority and control of the provider if the administrator is temporarily unavailable.

C. An SC provider shall maintain an administrative file that includes:

1. documents identifying the governing body;

2. a list of members and officers of the governing body, along with their addresses and terms of membership;

3. minutes of formal meetings and by-laws of the governing body, if applicable;

4. a copy of the current license issued by the Health Standards Section;

5. an organizational chart of the SC provider which clearly delineates the line of authority;

6. all leases, contracts and purchases-of-service agreements to which the provider is a party;

7. insurance policies;

8. annual budgets and audit reports; and

9. a master list of all the community resources used by the provider.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2120.9.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 45:

§4939. Policy and Procedures

A. The SC provider shall provide supervision and services that:

1. conform to the department's rules and regulations;

2. meet the needs of the clients as identified and addressed in the Individual Service Plan (ISP) or Comprehensive Plan of Care (CPOC);

3. provide for the full protection of clients' rights; and

4. promote the social, physical and mental well-being of clients;

B. The SC provider shall make any required information or records, and any information reasonably related to assessment of compliance with these requirements, available to the department.

C. The SC provider shall allow designated representatives of the department, in performance of their mandated duties, to:

1. inspect all aspects of an SC provider's operations which directly or indirectly impact clients; and

2. conduct interviews with any staff member or client of the provider as necessary and relevant to conduct a survey.

D. The SC provider shall, upon request by the department, make available the legal ownership documents.

E. The SC provider shall have written policies and procedures approved by the owner or governing body, which shall be implemented and followed, that address at a minimum the following:

1. confidentiality and confidentiality agreements;

2. security of files;

3. publicity and marketing, including the prohibition of illegal or coercive inducement, solicitation and kickbacks;

4. personnel;

5. client rights;

6. grievance procedures;

7. emergency preparedness;

8. abuse and neglect; and
9. admission and discharge procedures.

F. The SC provider shall have written personnel policies, which shall be implemented and followed, that include:

1. a plan for recruitment, screening, orientation, ongoing training, development, supervision and performance evaluation of staff members;
2. written job descriptions for each staff position, including volunteers;
3. an employee grievance procedure;
4. abuse reporting procedures that require all employees to report any incidents of abuse or mistreatment, whether that abuse or mistreatment is done by another staff member, a family member, a client or any other person; and
5. a written policy to prevent discrimination.

G. The SC provider shall comply with all federal and state laws, rules and regulations in the development and implementation of its policies and procedures.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2120.9.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 45:

§4941. Business Location

A. The SC provider shall have a business location in the LDH Region for which the license is issued. The business location shall be a part of the physical geographic licensed location and shall be where the provider:

1. maintains staff to perform administrative functions;
2. maintains the provider's personnel records;
3. maintains the provider's client service records; and
4. holds itself out to the public as being a location for receipt of client referrals.

B. The business location shall have a separate entrance and exit from any other entity, business or trade, and shall have appropriate signage indicating the legal or trade name and address of the SC provider and days and hours of operation. The SC provider shall operate independently from any other business or entity, and shall not share office space with any other business or entity.

1. The SC provider may share common areas with another business or entity. Common areas include foyers, kitchens, conference rooms, hallways, stairs, elevators or escalators when used to provide access to the provider's separate entrance.

C. The business location shall:

1. be commercial office space or, if located in a residential area, be zoned for appropriate commercial use and shall be used solely for the operation of the business;
2. have approval for occupancy from the Louisiana Office of Public Health;
3. have a published telephone number which is monitored, available and accessible 24 hours a day, seven days a week, including holidays;
4. have a business fax number that is operational 24 hours a day, seven days a week;
5. have internet access and a working, monitored e-mail address;
 - a. the e-mail address shall be provided to the HSS and updated as needed;
6. have hours of operation posted in a location outside of the business that is easily visible to clients receiving services and the general public; and

7. maintain and store client records in accordance with HIPAA's Security Rule (45 CFR Part 160 and Subparts A and C of Part 164) either electronically or in paper copy.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2120.9.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 45:

§4943. Admission of Clients

A. An SC provider shall have written admissions policies and criteria which shall include the following:

1. intake policy and procedures;
2. admission criteria and procedures;
3. admission criteria and procedures for minors;
4. policy regarding the determination of legal status, according to appropriate state laws, before admission;
5. the ages of the populations served;
6. the services provided by the SC provider; and
7. discharge criteria and procedures.

B. The written description of admissions policies and criteria shall be provided to the department upon request, and made available to the client and his/her legal representative.

C. The SC provider shall ensure that the client, the legal representative, where appropriate, or other persons are provided an opportunity to participate in the admission process and decisions.

D. The SC provider shall not refuse admission to any client on the grounds of race, national origin, ethnicity or disability.

E. The SC provider shall meet the needs of each client admitted to his/her program as identified and addressed in the client's ISP.

F. When refusing admission, a provider shall provide a written statement as to the reason for the refusal. This shall be provided to designated representatives of the department or to a client upon request.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2120.9.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 45:

§4945. Voluntary Transfers and Discharges

A. A client has the right to choose an SC provider. This right includes the right to be discharged from his current provider, be transferred to another provider and to discontinue services altogether.

B. Upon notice by the client or authorized representative that the client has selected another SC provider or has decided to discontinue services or moves from the geographic region serviced by the provider, the SC provider shall have the responsibility of planning for the client's voluntary transfer or discharge.

C. The transfer or discharge responsibilities of the SC provider shall include:

1. holding a transfer or discharge planning conference with the client, family, support coordinator, legal representative and advocate, if known, to facilitate a smooth transfer or discharge, unless the client declines such a meeting;
2. providing a current individual service plan (ISP). Upon written request and authorization by the client or authorized representative, a copy of the current ISP shall be provided to the client or receiving provider; and

3. preparing a written discharge summary. The discharge summary shall include, at a minimum, a summary on the health status, developmental issues, behavioral issues, social issues, and nutritional status of the client. Upon written request and authorization by the client or authorized representative, a copy of the discharge summary shall be disclosed to the client or receiving provider.

D. The written discharge summary shall be completed within five working days of the notice by the client or authorized representative that the client has selected another SC provider or has decided to discontinue services.

1. The SC provider's preparation of the discharge summary shall not impede or impair the client's right to be transferred or discharged immediately if the client so chooses.

E. The SC provider shall not coerce the client to stay with the provider or interfere in any way with the client's decision to transfer. Failure to cooperate with the client's decision to transfer to another SC provider may result in adverse action by the department.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2120.9.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 45:

§4947. Involuntary Transfers and Discharges

A. The SC provider shall not transfer or discharge the client from the provider except under the following circumstances which constitute involuntary transfers or discharges:

1. the client's health has improved sufficiently or that the client is no longer appropriate to receive SC services;

2. the safety or health of a client(s) or provider staff is endangered;

3. the provider ceases to operate;

4. the client or family refuses to cooperate or interferes with attaining the objectives of the SC provider; or

5. the SC provider chooses to cease serving a particular client population so that certain services are no longer provided.

B. When the SC provider proposes to involuntarily transfer or discharge a client, compliance with the provisions of this Section shall be fully documented in the client's records.

C. An SC provider shall provide a written notice of the involuntary transfer or discharge to the client, a family member of the client if known or to the authorized representative if known, and the support coordinator if applicable.

1. The written notice shall be made at least 30 calendar days prior to the transfer or discharge.

2. When the safety or health of clients or provider staff is endangered, written notice shall be given as soon as practicable before the transfer or discharge.

3. The notice of involuntary discharge or transfer shall be in writing and in a language and manner that the client understands.

4. A copy of the notice of involuntary discharge or transfer shall be placed in the client's support coordination record.

D. The written notice of involuntary transfer or discharge shall include:

1. a reason for the transfer or discharge;

2. the effective date of the transfer or discharge;

3. an explanation of a client's right to personal and/or third party representation at all stages of the transfer or discharge process;

4. contact information for the Advocacy Center;

5. names of provider personnel available to assist the client and family in decision making and transfer arrangements;

6. the date, time and place for the discharge planning conference;

7. a statement regarding the client's appeal rights, when applicable;

8. the name of the director, current address and telephone number of the Division of Administrative Law (DAL), or its successor; and

9. a statement regarding the client's right to remain with the provider and not be transferred or discharged if an appeal is timely filed.

E. Appeal Rights for Involuntary Transfers or Discharges

1. If a timely appeal is filed with the DAL by the client or authorized representative disputing the involuntary discharge, the provider shall not transfer or discharge the client pursuant to the provisions of this Section.

2. The transfer or discharge of a patient prior to the period for filing an appeal or during the pendency of an appeal may result in revocation of the SC provider's license.

3. If a client files a timely appeal request, the DAL, or its successor, shall hold an appeal hearing in accordance with the Administrative Procedures Act (APA).

F. Client's Right to Remain with the SC Provider Pending the Appeal Process

1. If a client is given 30 calendar days written notice of the involuntary transfer or discharge and the client or authorized representative files a timely appeal, the client may remain with the provider and not be transferred or discharged until the DAL, or its successor, renders a decision on the appeal.

2. If a client is given less than 30 calendar days' written notice and files a timely appeal of an involuntary transfer/discharge based on the health and safety of individuals or provider staff being endangered, the client may remain with the provider and not be transferred or discharged until one of the following occurs:

a. the DAL, or its successor, holds a pre-hearing conference regarding the safety or health of the staff or individuals; or

b. the DAL, or its successor, renders a decision on the appeal.

G. The transfer or discharge responsibilities of the SC provider shall include:

1. holding a transfer or discharge planning conference with the client, family, support coordinator, legal representative and advocate, if known, in order to facilitate a smooth transfer or discharge;

2. development of discharge options that will provide reasonable assurance that the client will be transferred or discharged to a setting that can be expected to meet his/her needs;

3. preparing an updated ISP; and

4. preparing a written discharge summary. The discharge summary shall include, at a minimum, a summary of the health status, developmental status, behavioral issues,

social issues and nutritional status of the client. Upon written request and authorization by the client or authorized representative, a copy of the discharge summary and/or updated ISP shall be disclosed to the client or receiving provider.

H. The SC provider shall provide all services required prior to discharge that are contained in the final update of the individual service plan and in the transfer or discharge plan.

1. The SC provider shall not be required to provide services if the discharge is due to the client moving out of the provider's geographic region. The SC provider is prohibited from providing services outside of its geographic region without the department's HSS approval.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2120.9.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 45:

§4949. Client Records

A. Client records shall be maintained either electronically or in paper form in the SC provider's office and shall be readily accessible to the provider and the surveyor.

B. The SC provider shall have a written record for each client which shall include:

1. identifying data including:
 - a. name;
 - b. date of birth;
 - c. address;
 - d. telephone number;
 - e. social security number;
 - f. legal status;
 - g. proof of interdiction or continuing tutorship, if applicable; and
 - h. other identifying information, if applicable.
2. a copy of the client's ISP or Medicaid comprehensive plan of care, as well as any modifications or updates to the service plan;
3. the client's history including, where applicable:
 - a. family data;
 - b. next of kin;
 - c. educational background;
 - d. employment record;
 - e. prior medical history; and
 - f. prior service history;
4. the service agreement or comprehensive plan of care (CPOC);
5. required assessment(s) and additional assessments that the provider may have received or is privy to;
6. the names, addresses and telephone numbers of the client's physician(s), dentist, or other pertinent health care providers; and
7. a copy of any advance directive that has been provided to the SC provider or any physician orders relating to end of life care and services, such as Louisiana Physician Orders for Scope of Treatment (LaPOST).

C. Support coordination providers shall maintain client records for a period of no less than six years, unless the client is a minor, then in accordance with state record retention laws or regulations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2120.9.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 45:

§4951. Client Rights

A. Unless adjudicated by a court of competent jurisdiction, clients served by SC providers shall have the same rights, benefits and privileges guaranteed by the constitution and the laws of the United States and Louisiana.

B. There shall be written policies and procedures that protect the client's welfare, including the means by which the protections will be implemented and enforced.

C. Each SC provider's written policies and procedures, at a minimum, shall ensure the client's right to:

1. human dignity;
2. impartial access to treatment regardless of race, religion, sex, ethnicity, age or disability;
3. cultural access in accordance with client-specific needs;
4. have access to sign language interpretation, allow for the use of service animals and/or mechanical aids and devices that assist those clients in achieving maximum service benefits when the client has special needs;
5. privacy;
6. confidentiality;
7. access his/her records upon the client's written consent for release of information;
8. a complete explanation of the nature of services and procedures to be received, including:
 - a. risks;
 - b. benefits; and
 - c. available alternative services;
9. actively participate in services, including:
 - a. assessment/reassessment;
 - b. service plan development; and
 - c. discharge;
10. refuse specific services or participate in any activity that is against their will and for which they have not given consent;
11. obtain copies of the SC provider's complaint or grievance procedures;
12. file a complaint or grievance without retribution, retaliation or discharge;
13. be informed of the financial aspect of services, if appropriate;
14. be informed of the need for parental or guardian consent for treatment of services, if appropriate;
15. personally manage financial affairs, unless legally determined otherwise;
16. give informed written consent prior to being involved in research projects;
17. refuse to participate in any research project without compromising access to services;
18. be free from mental, emotional and physical abuse and neglect;
19. be free from chemical or physical restraints;
20. receive services that are delivered in a professional manner and are respectful of the client's wishes concerning their home environment;
21. receive services in the least intrusive manner appropriate to their needs;

22. contact any advocacy resources as needed, especially during grievance procedures; and

23. discontinue services with one provider and freely choose the services of another provider.

D. An SC provider shall assist in obtaining an independent advocate:

1. if the client's rights or desires may be in jeopardy;
2. if the client is in conflict with the provider; or
3. upon any request of the client.

E. The client has the right to select an independent advocate, which may be:

1. a legal assistance corporation;
2. a state advocacy and protection provider;
3. a church or family member; or
4. any other competent key person not affiliated in any way with the licensed provider.

F. The client, client's family and legal guardian, if known, shall be informed of their rights, both verbally and in writing in a language they are able to understand.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2120.9.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 45:

§4953. Grievance Procedures

A. The SC provider shall establish and follow a written grievance procedure to be used to formally resolve complaints by clients, their family member(s) or a legal representative regarding provision of services. The written grievance procedure shall be provided to the client.

1. The notice of grievance procedure shall include the names of organizations that provide free legal assistance.

B. The client, family member or legal representative shall be entitled to initiate a grievance at any time without fear of retaliation.

C. The provider shall periodically explain the grievance procedure to the client, family member(s) or a legal representative, utilizing the most appropriate strategy for ensuring an understanding of what the grievance process entails.

1. The provider shall provide the grievance procedure in writing and grievance forms shall be made available.

D. The administrator, or designee, shall investigate all grievances and shall make all reasonable attempts to address the grievance.

E. The administrator, or designee, shall issue a written report and/or decision within five business days of receipt of the grievance to the:

1. client;
2. client's advocate;
3. authorized representative; and
4. the person making the grievance.

F. Grievances shall be periodically reviewed by the governing body in an effort to promote improvement in these areas.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2120.9.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 45:

§4955. Abuse Reporting

A. A provider shall have abuse reporting procedures which require all employees to report any incidents of abuse or mistreatment whether that abuse or mistreatment is done

by another staff member or professional, family member, the client, or any other person.

B. There shall be written policies and procedures regarding abuse and neglect as defined by state and federal law.

1. The requirement that such acts of abuse and/or neglect shall be strictly prohibited.

2. Reporting Procedures

a. Every provider employee, consultant or contractor who witness, learns of, is informed of, or otherwise has reason to suspect that an incident of abuse or neglect has occurred, shall report such incident in accordance with state child protection, adult protection, and elderly protection laws and fully cooperate with the investigation of the incident and with local authorities and agencies, as applicable.

b. Every employee, contract or staff, shall be informed of his or her reporting responsibilities and trained in the procedures for reporting, upon employment and periodically as needed.

3. Any allegations of abuse and neglect by provider personnel shall be investigated internally.

a. Individuals under investigation shall not be part of the investigation.

b. The SC takes appropriate reporting action in the case of substantiated abuse in accordance with the SC provider's own reporting policy and applicable state law and regulations.

c. The results of such investigations shall be reviewed administratively and reported to the governing body, as appropriate.

d. Appropriate measures shall be taken to assure that the individual is protected from further abuse in accordance with the SC provider's own reporting policy and applicable state law and regulations.

4. Every employee, consultant, and contractor shall be given a written copy of the SC's policies and procedures on client abuse and neglect, upon employment and periodically as needed.

a. Documentation of policy review by each employee shall be maintained in the employee's personnel file.

b. Policies and procedures shall be made available to others upon request.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2120.9.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 45:

Subchapter C. Personnel

§4963. Support Coordinator Qualifications

A. Support coordinators, previously known as case managers, hired or promoted on or after one year from the effective date of promulgation of this section shall meet the following criteria for education and experience:

1. a bachelor's or master's degree in social work from a program accredited by the Council on Social Work Education; or

2. a RN currently licensed in Louisiana with at least one year of paid nursing experience; or

3. a bachelor's or master's degree in a human service related field which includes psychology, education, counseling, social services sociology, philosophy, family and

consumer sciences, criminal justice, rehab services, child development, substance abuse, gerontology and vocational rehabilitation; or

4. a bachelor's degree in liberal arts or general studies with a concentration of at least 16 hours in one of the fields listed in accordance with §4963.A.3.

B. All support coordinators shall be employees of the provider, either by contract or directly employed.

C. Support coordinator supervisors hired or promoted on or after one year from the effective date of promulgation of this section shall meet the following qualifications for education and experience:

1. a bachelor's or master's degree in social work from a program accredited by the Council on Social Work Education and two years of paid post degree experience in providing SC services; or

2. a RN currently licensed in Louisiana with at least two years of paid nursing experience; or

3. a bachelor's or master's degree in a human service related field which includes psychology, education, counseling, social services, sociology, philosophy, family and consumer sciences, criminal justice, rehab services, child development, substance abuse, gerontology and vocational rehabilitation and two years of paid post degree experience in providing SC services; or

4. a bachelor's degree in liberal arts or general studies with a concentration of at least 16 hours in one of the fields listed in §4963.C.3 and two years of paid post degree experience in providing SC services.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2120.9.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 45:

§4965. Staff Training

A. Support coordinators shall receive necessary orientation and periodic training on the provision of SC services arranged or provided through the SC provider.

1. Orientation of at least 16 hours shall be provided by the provider to all staff, volunteers and students within five working days of employment which shall include, at a minimum:

- a. policies and procedures of the provider;
- b. confidentiality;
- c. documentation in case records;
- d. client rights protection and reporting of violations;
- e. abuse and neglect policies and procedures;
- f. professional ethics;
- g. emergency and safety procedures; and
- h. infection control including universal precautions.

B. Routine supervision shall not be considered training.

C. In addition to the minimum 16 hours of orientation, all support coordinators shall receive training during the first 90 calendar days of employment which is related to the target population to be served and specific knowledge, skills and techniques necessary to provide SC to the target population. This training shall be provided by an individual with demonstrated knowledge of the training topic and the target population. The training shall include, at a minimum:

1. assessment techniques;
2. service planning;
3. resource identification;

4. interviewing techniques;
5. data management and record keeping;
6. communication skills; and
7. development of the ISP which includes the comprehensive plan of care.

E. No new SC employee may be given sole responsibility for a client until this training is satisfactorily completed and the employee possesses adequate abilities, skills and knowledge of SC.

F. A support coordinator shall complete a minimum of eight hours of training per calendar year. Appropriate updates of topics covered in orientation and training for a new service coordinator maybe included in the required eight hours of annual training.

G. An SC supervisor shall satisfactorily complete eight hours of training per year. A new supervisor shall satisfactorily complete a minimum of 16 hours during orientation training on all of the following topics prior to assuming SC supervisory responsibilities:

1. professional identification/ethics;
2. process for interviewing, screening, and hiring staff;
3. orientation/in-service training of staff;
4. evaluating staff;
5. approaches to supervision;
6. caseload management ;
7. conflict resolution; and
8. documentation.

H. Documentation of all training shall be placed in the individual's personnel file. Documentation shall include an agenda and the name, date, title, and provider affiliation of the training presenter(s) and other sources of training.

I. The minimum hours for training required in this section are in addition to any other training hours that may be required by applicable rules and regulations of the department.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2120.9.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 45:

§4967. Caseload Size Standards

A. Each full-time support coordinator shall have up to a maximum of 60 clients in a caseload unless a lower ratio exists in LDH or other applicable state or federal regulations for the population to be served.

B. Each support coordinator supervisor shall supervise a maximum of eight full-time support coordinators or a combination of full-time support coordinators and other human service staff under their direct supervision.

C. A supervisor may assist, if necessary, by carrying a caseload for each support coordinator supervised, but no greater than 12 clients at any time.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2120.9.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 45:

§4969. Staff Supervision

A. Each SC provider shall have and implement a written plan for supervision of all SC staff. Supervision shall occur individually at least once per week per support coordinator. Supervisors shall review support coordinator's case records each month for completeness, compliance with these standards, and quality of service delivery.

B. Supervision of individual support coordinators shall include the following:

1. direct review, assessment, problem solving, and feedback regarding the delivery of SC services;
2. teaching and monitoring of the application of client centered SC principles and practices;
3. assuring quality delivery of services;
4. managing assignment of caseloads; and
5. arranging for or providing training as appropriate.

C. Supervision shall be accomplished by a combination of more than one of the following means:

1. individual, face to face sessions with staff to review cases, assess performance and give feedback;
2. sessions in which the supervisor accompanies an individual staff member to meet with clients. The supervisor assesses, teaches and gives feedback regarding the staff member's performance related to the particular client;
3. group face to face sessions with all SC staff to problem solve, provide feedback and support to support coordinators; and/or
4. by means of telecommunication.

D. Each supervisor shall maintain a file on each support coordinator supervised and hold supervisory sessions to ensure client outcomes. The file on the support coordinators shall include, at a minimum:

1. date and content of the supervisory sessions; and
2. results of the supervisory case review which shall address, at a minimum, completeness and adequacy of records, compliance with standards, and effectiveness of services.

E. Support coordinators shall be evaluated at least annually by their supervisor according to written policy of the provider on evaluating their performance.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2120.9.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 45:

§4971. Staff Plan and Staff Coverage

A. An SC provider shall have a written plan for recruitment, screening, orientation, ongoing training, development and supervision and performance evaluation of staff members, either contract or directly employed.

B. Sufficient staffing shall be provided to ensure a safe environment and adequacy of programming with consideration given to the geography of the setting, the number and needs of individuals served, and the intensity of services needed. Staff coverage shall be documented.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2120.9.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 45:

§4973. Coordination of Client Services

A. Support Coordination shall consist of services to assist clients in gaining access to the full range of needed services, including medical, social, educational and other support services. There shall be ongoing services which shall be accomplished through the following activities:

1. Intake, which shall include determination of a client's eligibility for SC services as part of a targeted group of consumers and the determination of need for SC services. All clients shall be interviewed no less than 14 calendar days of referral or less as program specific, if applicable, to the provider and participate in the initial ISP, whenever possible.

2. Assessment/reassessment, which shall include the collection and integration of formal/professional and informal information concerning a client's social, familial, medical, developmental, legal, educational, vocational, psychiatric and economic status, as appropriate, to assist in the formulation of the comprehensive, individualized written service plan.

- a. The assessment process shall include input from the client/guardian, inclusive of the vision and goals of the client, and may include input from family members, friends, professionals, and service providers, as appropriate.

- b. The assessment shall focus on the client's strengths, needs, vision and goals. The support coordinator shall make a face-to-face contact with the client as part of the assessment process.

- c. The client's status shall be reassessed on an ongoing basis.

3. Service planning, which shall include the development of a comprehensive, individualized written plan of care and services is based on the needs, strengths, vision, and goals of the client identified during the assessment process.

- a. The client/guardian shall actively participate with the support coordinator in development of the service plan with input from family members, professionals and service providers, as needed.

- b. The objective of service planning shall be to promote consistent, coordinated, timely and quality service provision and to assist the person in achieving his/her goals in a manner that promotes independence, community work/living, and assure health and safety.

- c. The service plan shall include, at a minimum, client strengths, needs, vision, and specific measurable goals and objectives with anticipated time-frames.

- d. The service plan shall be completed within 35 calendar days of the intake interview for SC services, unless another timeframe exists in other applicable controlling state or federal regulations.

- e. The written service plan shall be reviewed at least every 90 days and ongoing, as needed, to assure goals and services are appropriate to the client's needs identified in the assessment/reassessment process and updated as needed to address changes determined by the review.

4. Linkage, referral and follow-up which shall assure that the client has access to and is receiving the most appropriate services available to meet needs as outlined in the service plan. Linkage shall include, but is not limited to:

- a. contacting the individual's support network including family, neighbors and friends to mobilize assistance for the individual; and

- b. locating or assisting the client in locating formal and informal service providers;

- c. advocacy, which may occur on behalf of the client when needed to assure the client has access to and receives appropriate services.

5. Monitoring/follow-up, which shall include ongoing interaction with the client/guardian, family members and professionals (as appropriate), and service providers to ensure that the agreed upon services are provided in a timely, coordinated and integrated manner and are adequate to meet the needs and stated goals of the service plan. The support coordinator shall make at least monthly contacts, either by

telephone or other electronic means, or face-to-face contacts, as needed, with the client/guardian as part of the linkage and monitoring/follow-up process.

6. Transition/closure, which shall be a joint decision made by the service coordinator, client and/or family member, and other team members, when appropriate. Closure shall occur upon completion of all SC goals identified on the service plan except when service coordination is a required component of a service or a required service or the client is no longer appropriate to receive SC services.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2120.9.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 45:

Subchapter D. Program Specific Provisions

§4981. Program Description

A. The provider shall have a clear, concise written program description, available to the public, detailing:

1. the overall philosophy of the program;
2. the long and short term goals of the program;
3. the types of clients to be served;
4. the intake and closure criteria;
5. there shall be written eligibility criteria for each of the services/programs provided;
6. the services to be provided;
7. a schedule of any fees for service which will be charged to the client;
8. a method of obtaining feedback from the client regarding client satisfaction with services;
9. an inventory of existing resources (both formal and informal) has been completed that identifies services within the geographic area to address the unique needs of the population to be served. This inventory shall be updated at least annually;
10. demonstrated evidence that the program coincides with or is in agreement with existing state, regional, and local comprehensive service coordination and planning for the target population.

B. The provider shall make every effort to ensure that services and planning for each client shall be a comprehensive process involving appropriate staff, representatives of other agencies and providers, the client, and where appropriate, the legally responsible person, and any other person(s) significantly involved in the client's care on an ongoing basis.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2120.9.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 45:

§4983. Quality Improvement Plan

A. The SC provider shall develop and implement a continuous quality improvement plan that is designed to objectively assess and improve the quality of services for clients which includes the following components:

1. the capability to identify, assess, and correct problems, a time line for correction of deficiency and follow-up on the results of corrective action;
2. procedures to allow immediate response to identified problems.

B. Pertinent findings of quality improvement activities shall be reported to the governing body, executive/provider director.

C. The chief administrator shall have the responsibility for the implementation and coordination of the quality improvement process. Duties shall be specified.

D. Administrative review and any required corrective action shall be conducted as required.

E. The quality improvement plan and process shall be reviewed and evaluated at least annually to determine the need for and the mechanisms for improving the plan.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2120.9.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 45:

§4985. Self-Advocacy

A. An SC provider shall make efforts to ensure that a client understands his/her rights in matters such as access to services, appeals, grievances, and protection from abuse.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2120.9.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 45:

§4987. Advocacy

A. An SC provider shall ensure that an advocate is provided to the client whenever the client's rights or desires may be in conflict or jeopardy with the provider or when requested by the client and/or guardian.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2120.9.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 45:

Family Impact Statement

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed Rule on the family has been considered. It is anticipated that this proposed Rule will have no impact on family functioning, stability and autonomy as described in R.S. 49:972.

Poverty Impact Statement

In compliance with Act 854 of the 2012 Regular Session of the Louisiana Legislature, the poverty impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will have no impact on child, individual, or family poverty in relation to individual or community asset development as described in R.S. 49:973.

Provider Impact Statement

In compliance with House Concurrent Resolution (HCR) 170 of the 2014 Regular Session of the Louisiana Legislature, the provider impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will have no impact on the staffing level requirements or qualifications required to provide the same level of service, no direct or indirect cost to the provider to provide the same level of service, and will have no impact on the provider's ability to provide the same level of service as described in HCR 170.

Public Comments

Interested persons may submit written comments to Cecile Castello, Health Standards Section, P.O. Box 3767, Baton Rouge, LA 70821 or by email to MedicaidPolicy@la.gov.

Ms. Castello is responsible for responding to inquiries regarding this proposed Rule. The deadline for submitting written comments is at close of business, 4:30 p.m., on April 1, 2019.

Public Hearing

The department will conduct a public hearing at 9:30 a.m. on March 28, 2019 in Room 118 of the Bienville Building, which is located at 628 North Fourth Street, Baton Rouge, LA. All interested persons are invited to attend and present data, views, comments, or arguments, orally or in writing. Parking is available to the public in the Galvez Parking Garage which is located between North Sixth and North Fifth/North and Main Streets (cater-corner from the Bienville Building). Validated parking for the Galvez Garage may be available to public hearing attendees when the parking ticket is presented to LDH staff at the hearing.

Rebekah E. Gee MD, MPH
Secretary

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

**RULE TITLE: Support Coordination Providers
Licensing Standards**

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

It is anticipated that implementation of this proposed Rule will have no programmatic fiscal impact to the state other than the cost of promulgation for FY 18-19 as these licensing provisions are separate and apart from any other requirements established by the Medicaid Program for reimbursement purposes. It is anticipated that \$9,396 will be expended in FY 18-19 for the state's administrative expense for promulgation of this proposed Rule and the final Rule.

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

It is anticipated that the implementation of this proposed Rule will not affect federal revenue collections or licensing fee collections.

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

This proposed Rule repeals the provisions of Title 48, Part I, Chapter 49 of the Louisiana Administrative Code governing case management licensing standards and replaces with provisions governing the licensing of support coordination providers to ensure that these provisions are consistent with other health care licensing requirements and are promulgated in a clear and concise manner in the Louisiana Administrative Code. It is anticipated that the implementation of this proposed Rule will not result in economic costs to support coordination providers for FY 18-19, FY 19-20 and FY 20-21, but will be beneficial by providing accurate, clearly identified licensing standards.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT
(Summary)**

This Rule has no known effect on competition and employment.

Cecile Castello
Director
1902#036

Evan Brasseaux
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Health
Licensed Professional Vocational Rehabilitation
Counselors Board of Examiners**

Professional Ethics
(LAC 46:LXXXVI.Chapter 1, Chapter 3 and Chapter 16)

Notice is hereby given, in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., that the Louisiana Licensed Professional Vocational Rehabilitation Counselors Board of Examiners pursuant to the authority vested in it by R.S. 37:3445, intends to amend its rules, repeal the current ethical canons pertaining to Licensed Vocational Rehabilitation Counselors and adopt the Commission on Rehabilitation Counselor Certification Code of Professional Ethics for Rehabilitation Counselors. The reason for the proposed Rule is that it is required by R.S. 37:3445. The proposed amendments to the rules are set forth below.

**Title 46
PROFESSIONAL AND OCCUPATIONAL
STANDARDS**

**Part LXXXVI. Vocational Rehabilitation Counselors
Chapter 1. General Provisions**

§103. Description of Organization

A. The Louisiana Licensed Professional Vocational Rehabilitation Counselors Board of Examiners, hereafter referred to as the board, resides in the Department of Health and consists of five members, who shall be residents in the state of Louisiana. Board members are appointed by the governor as specified in §3444. Each term shall be for four years and each of these appointments shall be submitted to the Senate for confirmation. Board members consist of four licensed professional vocational rehabilitation counselors, and one consumer from the public at large. No board member shall serve more than two full consecutive terms.

B. Appointments to the board are made from a list of qualified candidates submitted by the International Association of Rehabilitation Professionals-Louisiana. No board member shall be liable in any civil action for any act performed in good faith in the execution of his duties under Chapter 53 of Title 37 (R.S. 37:3446-3452 and R.S. 36:478.I).

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3441-3452 and R.S. 36:478(I).

HISTORICAL NOTE: Promulgated by the Department of Social Services, Licensed Professional Vocational Rehabilitation Counselors Board of Examiners, LR 15:276 (April 1989), amended LR 45:

§105. Vacancies

A. A vacancy occurring in board membership for an unexpired term shall be filled for the remainder of the term by the governor, within 30 days, from a list of qualified candidates submitted by the International Association of Rehabilitation Professionals-Louisiana as prescribed in §3444 of R.S. 37:3441-3452.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3441-3452 and R.S. 36:478(I).

HISTORICAL NOTE: Promulgated by the Department of Social Services, Licensed Professional Vocational Rehabilitation Counselors Board of Examiners, LR 15:276 (April 1989), amended LR 45:

Chapter 3. Board Meetings, Procedures, Records, Powers and Duties

§301. Officers

A. The board shall elect from its membership a chairman, vice-chairman, and secretary. The chairman shall preside at all meetings at which he or she is in attendance and perform all duties prescribed by Chapter 53 of Title 37 (R.S. 37:3441-3452 and R.S. 36:478.I) and the board. The chairman is authorized by the board to make day-to-day decisions regarding board activities to facilitate the responsiveness and effectiveness of the board. The vice-chairman shall perform the duties of the chairman in case of absence or disability of the chairman. In the event the office of chairman becomes vacant, the vice-chairman shall serve as chairman until a successor is named. In the absence of the chairman and vice-chairman, the secretary will preside until the chairman or vice-chairman is present. The secretary shall keep the minutes of board meetings and send said minutes to board members and clerical secretary of the board before each regular meeting of the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3441-3452 and R.S. 36:478(I).

HISTORICAL NOTE: Promulgated by the Department of Social Services, Licensed Professional Vocational Rehabilitation Counselors Board of Examiners, LR 15:276 (April 1989), amended LR 45:

§305. Board Staff

A. The board shall hire a full or part-time clerical secretary, who shall not be a member of the board, within the limits of funds received by the board pursuant to R.S. 37:3446. The clerical secretary will keep the records and files of the board and communicate with the candidates for licensure and others concerning board activities under the direction of the chairman of the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3441-3452 and R.S. 36:478(I).

HISTORICAL NOTE: Promulgated by the Department of Social Services, Licensed Professional Vocational Rehabilitation Counselors Board of Examiners, LR 15:276 (April 1989), amended LR 45:

§307. Meetings

A. The board shall be domiciled in Baton Rouge and shall hold its meetings in places to be designated by the board within the state of Louisiana, after reasonable notice. The board shall hold meetings at least semiannually. The chairperson may call meetings after consultation with the board members or by a majority of members voting at a regular meeting. Reasonable notice of all board meetings will be given seven days before the meeting. The board may examine, deny, approve, revoke, suspend, and renew the license of applicants and shall review applications at least once a year.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3441-3452 and R.S. 36:478(I).

HISTORICAL NOTE: Promulgated by the Department of Social Services, Licensed Professional Vocational Rehabilitation Counselors Board of Examiners, LR 15:276 (April 1989), amended LR 45:

§313. Code of Ethics

A. The board has adopted the Code of Professional Ethics for Rehabilitations Counselors created and adopted by the Commission of Rehabilitation Counselor Certification for its Certified Rehabilitation Counselors in September 2016 and effective as of January 1, 2017 as specified in R.S. 37:3445 as specified in R.S. 37:3445 and may adopt any revisions or additions deemed appropriate or necessary by the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3441-3452 and R.S. 36:478(I).

HISTORICAL NOTE: Promulgated by the Department of Social Services, Licensed Professional Vocational Rehabilitation Counselors Board of Examiners, LR 15:276 (April 1989), amended LR 45:

Chapter 16. Code of Professional Ethics for Licensed Rehabilitation Counselors

§1600. General

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3441-3452 and 36:478.I.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Vocational Rehabilitation Counselors Board of Examiners LR 28:491 (March 2002), repealed LR 45:

§1601. Code of Ethics

A. Pursuant to R.S. 37:3445D, the Code of Professional Ethics for Rehabilitations Counselors created and adopted by the Commission of Rehabilitation Counselor Certification for its Certified Rehabilitation Counselors in September 2016 and effective as of January 1, 2017 is hereby adopted by reference. A link to the code can be found at www.lrcboard.org.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3441-3452 and 36:478.I.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Vocational Rehabilitation Counselors Board of Examiners LR 28:491 (March 2002), amended LR 45:

§1602. Canon 2: Client-Counselor Relationship

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S.37:3441-3452 and 36:478.I.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Vocational Rehabilitation Counselors Board of Examiners LR 28:492 (March 2002), repealed LR 45:

§1603. Canon 3: Client Advocacy

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S.37:3441-3452 and 36:478.I.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Vocational Rehabilitation Counselors Board of Examiners LR 28:493 (March 2002), repealed LR 45:

§1604. Canon 4: Professional Relationships

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S.37:3441-3452 and 36:478.I.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Vocational Rehabilitation Counselors Board of Examiners LR 28:493 (March 2002), repealed LR 45:

§1605. Canon 5: Public Statement/Fees

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S.37:3441-3452 and 36:478.I.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Vocational Rehabilitation Counselors Board of Examiners LR 28:493 (March 2002).

§1605. Canon 5: Public Statement/Fees

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S.37:3441-3452 and 36:478.I.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Vocational Rehabilitation Counselors Board of Examiners LR 28:493 (March 2002), repealed LR 45:

§1605. Canon 5: Public Statement/Fees

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S.37:3441-3452 and 36:478.I.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Vocational Rehabilitation Counselors Board of Examiners LR 28:493 (March 2002), repealed LR 45:

§1606. Canon 6: Confidentiality

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S.37:3441-3452 and 36:478.I.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Vocational Rehabilitation Counselors Board of Examiners LR 28:494 (March 2002), repealed LR 45:

§1607. Canon 7: Assessment

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S.37:3441-3452 and 36:478.I.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Vocational Rehabilitation Counselors Board of Examiners LR 28:494 (March 2002), repealed LR 45:

§1608. Canon 8: Research Activities

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S.37:3441-3452 and 36:478.I.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Vocational Rehabilitation Counselors Board of Examiners LR 28:495 (March 2002), repealed LR 45:

§1609. Canon 9: Forensic Activities

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S.37:3441-3452 and 36:478.I.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Vocational Rehabilitation Counselors Board of Examiners LR 28:495 (March 2002), repealed LR 45:

§1610. Canon 10: Competence

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S.37:3441-3452 and 36:478.I.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Vocational Rehabilitation Counselors Board of Examiners LR 28:496 (March 2002), repealed LR 45:

§1611. Canon 11: LRC Credential

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S.37:3441-3452 and 36:478.I.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Vocational Rehabilitation Counselors Board of Examiners LR 28:496 (March 2002), repealed LR 45:

Family Impact Statement

The Licensed Professional Vocational Rehabilitation Counselors Board of Examiners hereby issues this Family Impact Statement: The proposed rule will have no known impact on family formation, stability, functioning or autonomy.

Poverty Impact Statement

The Licensed Professional Vocational Rehabilitation Counselors Board of Examiners hereby issues this Poverty Impact Statement: The proposed rule will have no known impact on any child, individual or family as defined in R.S. 49:973.B.

Small Business Impact Statement

The Licensed Professional Vocational Rehabilitation Counselors Board of Examiners hereby issues this Small Business Impact Statement, and having considered the criteria in the Regulatory Flexibility Act, has concluded that the proposed Rule will have no known impact on small businesses.

Provider Impact Statement

The Licensed Professional Vocational Rehabilitation Counselors Board of Examiners hereby issues this Provider Impact Statement: The proposed rule will have no known impact on providers as defined in HCR 170 of 2014 Regular Legislative Session. R.S. 49:973.B.

Public Comments

The proposed action of the Licensed Professional Vocational Rehabilitation Counselors Board of Examiners complies with the statutory law administered by the board, R.S. 37:3441-3452. A preamble has been prepared and is published herein. Interested persons may submit written comments on the proposed Rule to Stephen W. Glusman P.O. Box 41594 Baton Rouge, LA 70835 who will be responsible for responding to inquiries concerning this proposed action. The deadline for receipt of all written comments is 4:30 p.m. on March 20, 2019.

Mary Walker
Chairperson

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Professional Ethics**

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

The proposed rule changes will not result in any additional expenditures or savings for state or local governmental units.

The proposed rule changes update the administrative rules for the LA Professional Vocational Rehabilitation Counselors Board of Examiners to align with Act 626 of the 2018 Regular Session, altering the makeup of the board by reducing the number of board seats for consumers from 2 to 1, and increasing the number of board seats for practitioners from 3 to 4. However, the total number of board seats, five (5), remains unchanged. Furthermore, the proposed rule changes repeal an outdated code of ethics from the administrative rules for clarity, and replaces them with a different code of ethics the board

adopted pursuant to LA R.S. 37:3445(D). Lastly, the proposed rule changes make technical changes.

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

The proposed rule changes will not affect revenue collections of state or local governmental units

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

Pursuant to Act 626 of the 2018 Regular Session, the proposed rule changes increase the number of practitioner seats on the board by one, from 3 to 4. Furthermore, the proposed rule changes decrease the number of consumer seats on the board by one, from 2 to 1. As a result, there are more opportunities for practitioners to serve on the board, while there are fewer opportunities for consumers to serve on the board. However, the total number of board seats, five (5), remains unchanged.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule changes will not affect competition or employment.

Stephen W. Glusman
General Counsel
1902#024

Evan J. Brasseaux
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Health
Office of Public Health**

Disease Reporting Requirements; Public Health
Immunization Requirements; and Anti-Rabies Vaccination
Requirements for Dogs and Cats
(LAC 51:II.Chapter 1 and III.Chapter 1)

Notice is hereby given, in accordance with the Administrative Procedure Act, R.S. 49:950 et seq., that the state health officer acting through the Louisiana Department of Health, Office of Public Health (LDH-OPH), pursuant to the authority in R.S. 40:4(A)(2), and R.S. 40:5, intends to amend and revise Title 51 (Public Health—Sanitary Code), Part II (The Control of Diseases).

The proposed amendments to Part II, Chapter 1, are regarding disease reporting requirements. The proposed revisions to these requirements will keep them up to date with current national and state disease surveillance needs. Proposed amendments to Part II, Chapter 7, are regarding the immunization schedule. The proposed revisions to these requirements will update the Louisiana immunization schedule in accordance with the Advisory Committee on Immunization Practice (ACIP) of the United States Public Health Service.

In addition, the state health officer acting through the LDH-OPH, pursuant to the authority in R.S. 40:4(A)(2), R.S. 40:5(A)(1)(2) and R.S. 40:1269.3, also Intends to amend and revise Title 51, Part III (The Control of Rabies and Other Zoonotic Diseases). This proposed amendment relates to the appropriate re-vaccination interval of dogs and cats based upon the particular anti-rabies vaccine being administered to the animal, as well as updating required actions for domestic animals bitten by rabid animals to conform to current national best practices.

The proposed amendments shall be made by effecting substantive changes as outlined below.

Title 51

PUBLIC HEALTH—SANITARY CODE

Part II. The Control of Diseases

Chapter 1. Disease Reporting Requirements

§101. Definitions

[formerly paragraph 2:001]

A. Unless otherwise specifically provided herein, the following words and terms used in this Part and all other Parts which are adopted or may be adopted, are defined for the purposes thereof as follows.

* * *

Case—a particular instance of disease.

Case of Perinatal Exposure to Human Immunodeficiency Virus (HIV)—any instance of a live birth to a woman in whom HIV infection was present prior to the birth (indicated by maternal or neonatal HIV testing).

Case of Perinatal Exposure to Treponema Pallidum—any instance of a live birth or stillbirth to a woman in whom syphilis infection was present prior to the birth (indicated by maternal or neonatal syphilis testing).

* * *

AUTHORITY NOTE: The first source of authority for promulgation of the sanitary code is in R.S. 36:258(B), with more particular provisions found in Chapters 1 and 4 of Title 40 of the Louisiana Revised Statutes. This Part is promulgated in accordance with the specific provisions of R.S. 40:4(A)(2) and R.S. 40:5(A)(1)(2) and (10).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1212 (June 2002), amended LR 32:1050 (June 2006), LR 34:2173 (October 2008), repromulgated LR 34:2582 (December 2008), LR 36:1014 (May 2010), amended by the Department of Health, Office of Public Health, LR 45:

§105. Reportable Diseases and Conditions

[formerly paragraph 2:003]

A. It is hereby made the duty of every physician practicing medicine in the state of Louisiana to report to the state health officer, according to the requirements of this Section and utilizing the appropriate method(s) of reporting required under Subsection E of this Section, any case or suspected case of reportable disease or condition which he or she is attending, or has examined, or for which such physician has prescribed. The report shall be made promptly at the time the physician first visits, examines or prescribes for the patient, and such report shall state the name, age, sex, race, usual residence, place where the patient is to be found, the nature of the disease or condition and the date of onset, and the pregnancy status of the patient (if the pregnancy status is known and if it is clinically relevant to the disease or condition being reported). Reports of occupational disease/injury shall state contact information of the reporting person as well as the patient's name, contact information, age (or date of birth), sex, race/ethnicity, usual residence, occupation, employer information, the nature of the disease or injury, and the date of diagnosis.

B. - D.1.a. ...

i. *Acinetobacter* spp., carbapenem-resistant;

ii. acute flaccid paralysis, including acute flaccid myelitis;

- iii. amoeba (free living) infection (including *Acanthamoeba*, *Naegleria*, *Balamuthia* and others);
 - iv. anthrax;
 - v. avian or novel strain influenza A (initial detection);
 - vi. botulism;
 - vii. brucellosis;
 - viii. *Candida auris*, as well as common misidentifications of *C. auris* (e.g., *C. haemulonii*, *C. duobushaemulonii*, *C. famata*, *C. sake*, *C. lusitaniae*, *C. parapsilosis*, *C. catenulata*, *C. guilliermondii*, and *Rhodotorula glutinis*);
 - ix. cholera;
 - x. *Clostridium perfringens* food-borne illness;
 - xi. diphtheria;
 - xii. *Enterobacteriaceae*, carbenum-resistant;
 - xiii. fish or shellfish poisoning (domoic acid poisoning, neurotoxic shellfish poisoning, ciguatera, paralytic shellfish poisoning, scombroid);
 - xiv. food-borne illness;
 - xv. glanders (*Burkholderia mallei*);
 - xvi. *Haemophilus influenzae* (invasive infection);
 - xvii. influenza-associated mortality;
 - xviii. measles (rubeola, imported or indigenous);
 - xix. melioidosis (*Burkholderia pseudomallei*);
 - xx. *Neisseria meningitidis* (invasive infection);
 - xxi. outbreaks of any infectious diseases;
 - xxii. pertussis;
 - xxiii. plague (*Yersinia pestis*);
 - xxiv. poliomyelitis (paralytic and non-paralytic);
 - xxv. *Pseudomonas aeruginosa*, carbapenem-resistant;
 - xxvi. Q fever (*Coxiella burnettii*);
 - xxvii. rabies (animal and human);
 - xxviii. ricin poisoning;
 - xxix. rubella (congenital syndrome);
 - xxx. rubella (German measles);
 - xxxi. severe acute respiratory syndrome-associated coronavirus (SARS-CoV);
 - xxxii. *Staphylococcus aureus*, vancomycin intermediate or resistant (VISA.VRSA);
 - xxxiii. staphylococcal enterotoxin B (SEB) pulmonary poisoning;
 - xxxiv. smallpox;
 - xxxv. tularemia (*Francisella tularensis*);
 - xxxvi. viral hemorrhagic fever (Ebola, Lassa, Marburg, Crimean Congo, etc.); and
 - xxxvii. yellow fever.
2. - 2.a. ...
- i. anaplasmosis;
 - ii. arthropod-borne viral infections (including West Nile, Dengue, St. Louis, California, Eastern Equine, Western Equine, Chikungunya, Usutu, Zika, and others);
 - iii. aseptic meningitis;
 - iv. babesiosis;
 - v. Chagas disease;
 - vi. chancroid;
 - vii. cryptosporidiosis;
 - viii. cyclosporiasis;
 - ix. *Escherichia coli*, Shiga-toxin producing (STEC), including *E. coli* O157:H7;
 - x. granuloma inguinale;
 - xi. hantavirus (infection or pulmonary syndrome);
 - xii. hemolytic-uremic syndrome;
 - xiii. hepatitis A (acute illness);
 - xiv. hepatitis B (acute illness and carriage in pregnancy);
 - xv. hepatitis B (perinatal infection);
 - xvi. hepatitis C (acute illness);
 - xvii. hepatitis C (perinatal infection);
 - xviii. hepatitis E;
 - xix. herpes (neonatal);
 - xx. human immunodeficiency virus [(HIV), infection in pregnancy]^{2,6};
 - xxi. human immunodeficiency virus [(HIV), perinatal exposure]^{2,6};
 - xxii. legionellosis;
 - xxiii. listeriosis;
 - xxiv. malaria;
 - xxv. mumps;
 - xxvi. salmonellosis
 - xxvii. shigellosis;
 - xxviii. syphilis¹
 - xxix. syphilis [(*Treponema pallidum*), infection in pregnancy]^{1,6}
 - xxx. syphilis [(*Treponema pallidum*), perinatal exposure]^{1,6};
 - xxxi. tetanus;
 - xxxii. tuberculosis³ due to *Mycobacterium tuberculosis*, bovis or africanum;
 - xxxiii. typhoid fever;
 - xxxiv. *Vibrio* infections (other than cholera); and
 - xxxv. Zika virus-associated birth defects.
3. Class C Diseases or Conditions which Shall Require Reporting within Five Business Days
- a. - a.i. ...
 - ii. aspergillosis;
 - iii. - vii. ...
 - viii. ehrlichiosis (human granulocytic, human monocytic, *Ehrlichia chaffeensis* and *ewingii*);
 - ix. *Enterococcus*, vancomycin resistant [(VRE), invasive disease];
 - x. giardiasis;
 - xi. gonorrhea¹ (genital, oral, ophthalmic, pelvic inflammatory disease, rectal);
 - xii. Guillain-Barré syndrome;
 - xiii. Hansen's disease (leprosy);
 - xiv. hepatitis C (infection, other than as in Class B)²;
 - xv. histoplasmosis;
 - xvi. human immunodeficiency virus [(HIV) infection, other than as in class B]²;
 - xvii. human T lymphocyte virus (HTLV I and II) infection;
 - xviii. leptospirosis;
 - xix. Lyme disease;
 - xx. lymphogranuloma venereum¹;
 - xxi. meningitis, eosinophilic (including those due to *Angiostrongylus* infection);
 - xxii. Nipah virus infection;
 - xxiii. non-gonococcal urethritis;
 - xxiv. nontuberculous mycobacteria;
 - xxv. ophthalmia neonatorum;
 - xxvi. psittacosis;

- xxvii. spotted fever rickettsioses [*Rickettsia* species including Rocky Mountain spotted fever (RMSF)];
- xxviii. staphylococcal toxic shock syndrome;
- xxix. *Staphylococcus aureus*, methicillin/oxacillin-resistant [(MRSA), invasive infection];
- xxx. streptococcal disease, group A (invasive disease);
- xxxi. streptococcal disease, group B (invasive disease);
- xxxii. streptococcal toxic shock syndrome;
- xxxiii. *Streptococcus pneumoniae* invasive disease;
- xxxiv. transmissible spongiform encephalopathies (Creutzfeldt-Jakob disease and variants);
- xxxv. trichinosis;
- xxxvi. varicella (chickenpox); and;
- xxxvii. yersiniosis.

4. Class D Special Reportable Diseases or Conditions Shall Require Reporting within Five Business Days

- a. - a.i. ...
- ii. carbon monoxide exposure and/or poisoning⁵;
- iii. - vii. ...
- viii. lead exposure and/or poisoning (all ages)⁵;
- ix. pesticide-related illness or injury (all ages)⁵;
- x. ...
- xi. pneumoconiosis (asbestosis, berylliosis, silicosis, byssinosis, etc.)⁵;
- xii. radiation exposure, over normal limits⁵;
- xiii. - xviii. ...

5. Class E Reportable Occupational Diseases or Conditions Shall Require Reporting within 10 Business Days⁵

a. Class E diseases or conditions shall include any occupationally-related diseases or conditions of significant public health concern. This includes cases where the work environment is suspected to be the cause of an illness or injury or cases where the work environment is thought to be the cause of an illness exacerbation. Class E diseases or conditions shall be reported to the Office of Public Health, Section of Environmental Epidemiology and Toxicology, Occupational Health and Injury Surveillance Program, within 10 business days after existence of the case, suspected case, or positive test result is known.

- E. - E.1. ...
- 2. ²Report to the Louisiana STD/HIV Program. Visit www.hiv.dhh.louisiana.gov or call (504) 568-7474 for regional contact information.
- 3. - 4. ...
- 5. ⁵Report to the Section of Environmental Epidemiology and Toxicology, Occupational Health and Injury Surveillance Program, www.seet.dhh.louisiana.gov or call (504) 568-8150, toll free at (888) 293-7020, or by fax at (504) 568-8149.
- 6. ⁶Report to the Louisiana STD/HIV Program on HIV/Syphilis during Pregnancy Reporting Form. Visit www.hiv.ldh.louisiana.gov or by phone at (504) 568-7474.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4(A)(2) and R.S. 40:5(A)(1)(2)(10)(11).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1212 (June 2002), amended LR 32:1050 (June 2006), LR 34:2173 (October 2008), repromulgated LR 34:2582 (December 2008), LR 36:1014 (May 2010), repromulgated LR 36:1253 (June 2010), amended LR

39:1053 (April 2013), LR 41:2653 (December 2015), amended by the Department of Health, Office of Public Health, LR 45:

§107. Laboratory and Healthcare Facility Reporting Requirements (formerly §113)

A. The director of every laboratory and the director of an applicable healthcare facility whether public, private, hospital or other, within or out of the state shall report to the state health officer the results of all tests that are in any way clinically relevant, suggestive or indicative of an individual having active disease, past or present exposure to, past or present contact with and/or past or present association with any of the disease/conditions listed in LAC 51 (Public Health—Sanitary Code), Part II, Chapter 1, §105. The results of the tests to be reported to the state health officer do not have to be conducted for diagnostic reasons, nor do the results have to be diagnostic or confirmatory. The report shall be received in a timely manner consistent with the requirements of the diseases/conditions by class for the diseases/conditions described in §105 of this Chapter and shall state the name, date of birth, sex, race, usual residence, pregnancy status of the individual (if the pregnancy status is known and if it is clinically relevant to the disease or condition being reported), specimen identification code/ID and test results of the tested individual as well as the name of the physician or person submitting the specimen. Contact information for the laboratory or an applicable healthcare facility performing the test(s) shall be provided. Laboratories or an applicable healthcare facility shall not defer their public health reporting responsibilities to any other authorities within the institutions they serve. In addition, laboratories or an applicable healthcare facility performing tests on specimens received from other laboratories or an applicable healthcare facility shall report to the state health officer all results as prescribed above plus the contact information for the facility/laboratory or an applicable healthcare facility where the specimen originated. Moreover, no considerations, evaluations or concerns, regarding any test technology or test result by institutions and/or organizations whether federal, state or otherwise (e.g., FDA, CMS-CLIA, etc.) which may be overseeing, approving, evaluating or licensing laboratory testing, shall represent an *a priori* rationale for withholding laboratory reports from the state health officer.

- B. - B.4. ...
- 5. hepatitis C (past or present infection), including genotype where available;
- 6. - 9. ...

C. A reference culture or culture-independent diagnostic test (CIDT) specimen is required to be sent to the Office of Public Health laboratory, or a specialized laboratory as indicated below, for the following microorganisms within five business days of the final identification of the microorganism:

- 1. *Acinetobacter* spp., pan-resistant; consult with the OPH's Infectious Disease Epidemiology for submission to the CDC's Antibiotic Resistance Laboratory Network (ARLN);
- 2. *Bacillus anthracis* (confirmed or suspected);
- 3. *Bordetella pertussis*;
- 4. *Brucella* spp.

5. *Burkholderia mallei*;
6. *Burkholderia pseudomallei*;
7. *Campylobacter* spp.;
8. *Candida auris* submitted to the CDC's ARLN; consult with the OPH's Infectious Disease Epidemiology for common misidentifications of *C. auris* (e.g., *C. haemulonii*, *C. duobushaemulonii*, *C. famata*, *C. sake*, *C. lusitanae*, *C. parapsilosis*, *C. catenulata*, *C. guilliermondii*, and *Rhodotorula glutinis*);
9. *Corynebacterium diphtheriae*;
10. *E. coli* O157:H7 or *E. coli* Shiga toxin producing;
11. Enterobacteriaceae, carbapenem-resistant (excluding *Klebsiella pneumoniae*, *K. oxytoca*, *E. coli*, and *Enterobacter* spp.); consult with OPH's Infectious Disease Epidemiology for submission to the CDC ARLN;
12. *Francisella* spp.;
13. *Klebsiella pneumoniae*, *K. oxytoca*, *E. coli*, and *Enterobacter* spp., carbapenem-resistant;
14. *Listeria* spp.;
15. *Mycobacterium tuberculosis*, *bovis* or *africanum*;
16. *Plesiomonas* spp.;
17. *Pseudomonas aeruginosa*, carbapenem-resistant;
18. *Salmonella* spp.;
19. *Shigella* spp.;
20. *Vibrio* spp.;
21. *Yersinia enterocolitica*; and
22. *Yersinia pestis*.

D. A reference culture or culture-independent diagnostic test (CIDT) specimen is required to be sent to the Office of Public Health laboratory for the following microorganisms if the original culture was from a sterile site (e.g., blood, spinal fluid, other internal fluid, tissue, etc.). Such reference culture shall be sent to the Office of Public Health laboratory within five business days of the final identification of the microorganism:

D.1. - E. ...

F. Electronic reporting by a laboratory/facility shall include any results, negative or positive, for all components of testing indicative of the following conditions:

1. hepatitis C virus;
2. human immunodeficiency virus (HIV), including nucleotide sequences; and
3. syphilis.

G. Laboratories and applicable healthcare facilities are encouraged to report results electronically using Health Level Seven (HL7)-compliant message structure and appropriate standard Logical Observation Identifiers Names and Codes (LOINC) terminology designating the test(s) performed.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4(A)(2) and R.S. 40:5(A)(2)(10)(11).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1214 (June 2002), amended LR 32:1052 (June 2006), LR 39:1054 (April 2013), LR 41:2655 (December 2015), amended by Department of Health, Office of Public Health, LR:45:

Chapter 7. Public Health Immunization Requirements

§701. Immunization Schedule [formerly paragraph 2:025]

A. The Office of Public Health (OPH) will determine the Louisiana immunization schedule, with appropriate immunizations for age using the current immunization

schedule from the Advisory Committee for Immunization Practice (ACIP) of the United States Public Health Service (USPHS). Compliance for school and day care center entry will be based on the individual having received an appropriate number of immunizations for his/her age of the following types:

1. vaccines which contain tetanus and diphtheria toxoids, including Diphtheria and Tetanus (DT), Diphtheria/Tetanus/Acellular Pertussis (DTaP), Tetanus and Diphtheria (Tdap), Tetanus Toxoid (TT) or combinations which include these components;
2. polio vaccine, including Inactivated Polio Vaccine (IPV), or combinations which include this component;
3. vaccines which contain measles antigen, including Measles, Mumps, and Rubella (MMR) and combinations which include these components;
4. vaccines which contain hepatitis antigen, including Hepatitis B (HepB), Hepatitis A (HepA), and combinations which include these components;
5. vaccines which contain varicella antigen, including varicella and combinations which include this component.
6. vaccines which contain meningococcal antigen and combinations which include this component.

B. A one-month period will be allowed from the time the immunization is due until it is considered overdue. Medical, religious, and philosophic exemptions will be allowed for compliance with regulations concerning day care attendees and school enterers. Only medical and religious exemptions will be allowed for compliance with regulations concerning public assistance recipients. A copy of the current Office of Public Health immunization schedule can be obtained by writing to the Immunization Program, Office of Public Health, 1450 Poydras Street, Suite 1938, New Orleans, LA 70112 or by telephone (504)568-2600.

C. [formerly paragraph 2:025-1] Any child 18 years or under, admitted to any elementary and secondary school, kindergarten, college, university, proprietary school, vocational school, licensed day care center or residential facility shall have verification that the child has had all appropriate immunizations for age of the child according to the Louisiana immunization schedule unless presenting a written statement from a physician stating that the procedure is contraindicated for medical reasons, or a written dissent from parents. The operator of any elementary and secondary school, kindergarten, college, university, proprietary school, vocational school, licensed day care center or residential facility shall report to the state health officer through the health unit of the parish or municipality where such facility is located any case or suspected case of reportable disease. Health records, including immunization records, shall be made available during normal operating hours for inspection when requested by the state health officer. When an outbreak of a communicable disease occurs in an elementary and secondary school, kindergarten, college, university, proprietary school, vocational school, licensed day care center or residential facility, the operator of said facility shall comply with outbreak control procedures as directed by the state health officer.

D. [formerly paragraph 2:025-2] On or before October 1 of each year, the operator of each elementary and secondary school, kindergarten, college, university, proprietary school, vocational school, licensed day care center or residential

facility enrolling or housing any child 18 years or under, inclusive but not limited to these listed facilities shall submit a preliminary immunization status report of all children enrolled or housed as of that date. This compliance report shall be submitted utilizing the official Louisiana immunization information registry system (frequently referred to as LINKS) for reporting and shall include identifying information for each child, and for each dose of vaccine received by the child since birth. Any child exempt from the immunization requirement shall also be identified, and the reason for exemption given on the report. After review of the report(s) by the state health officer or his or her designee, the elementary and secondary school, kindergarten, college, university, proprietary school, vocational school, licensed day care center or residential facility operator shall notify, on or before December 31 of each year, the parent or guardian of all enrolled or housed children, who are not compliant, with the immunization requirement of §701.A and C of this Part.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4(A)(2) and R.S. 40:5. Also see R.S. 17:170, R.S. 22:1030, R.S. 40:31.15 and R.S. 44:17.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1221 (June 2002), amended LR 38:1252 (May 2012) amended by the Department of Health, Office of Public Health, LR 45:

Part III. The Control of Rabies and Other Zoonotic Diseases

Chapter 1. Anti-Rabies Vaccination Requirements for Dogs and Cats

§103. Mandatory Vaccinations of Dogs, Cats, and Ferrets [formerly paragraph 3:002]

A. No person shall own, keep or have in his custody a dog, cat, or ferret over 3 months of age that has not been vaccinated against rabies by a licensed veterinarian. Every owner of a dog, cat, or ferret shall cause said animal to be vaccinated initially with a series of two vaccinations, the first to be administered at 3 months of age, the second to be administered one year after the initial vaccination. Dogs, cats, or ferrets initially vaccinated later than 3 months of age shall also be administered a series of two vaccines, the second vaccine to be given one year after the initial vaccination. Thereafter, the interval between revaccinations shall conform to the *Compendium of Animal Rabies Prevention and Control*, 2016 Edition, Part II, Section B and Appendix 1: Rabies Vaccines Licensed and Marketed in the United States, 2016, which is published by the National Association of State Public Health Veterinarians, Inc. Vaccine licensing and labeling, including duration of immunity, is authorized by the Center for Veterinary Biologics at the United States Department of Agriculture (USDA), Animal and Plant Health Inspection Service (APHIS) and those decisions are based on testing conducted by the vaccine manufacturer. The results of testing are presented to USDA during the registration process.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4(A)(2)(a), R.S. 40:5(A) (2)(10)(11) and R.S. 40:1269.3.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1223 (June 2002), amended LR 33:650 (April 2007), LR 41:2657 (December 2015), amended by the Department of Health, Office of Public Health, LR:45:

§105. Human Exposure to Domestic Animal Bites [formerly paragraph 3:003]

A. When any dog, cat, or ferret bites a human being, said animal shall be confined (as described in §111) for a minimum of 10 days following the bite, or said animal shall be killed and the head submitted immediately to a laboratory of the Louisiana Department of Health for examination for rabies. During the observation period a rabies vaccine should not be administered to the animal to avoid confusing signs of rabies with possible side effects of vaccine administration. Any dog, cat, or ferret that develops any signs during the 10 day observation period shall be reported immediately to the local health authority and, provided such signs are compatible with rabies as determined by a licensed veterinarian or the official state public health veterinarian, the animal shall be killed and the head submitted to a laboratory of the Louisiana Department of Health for examination.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4A(2)(a), and R.S. 40:1269.3.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1223 (June 2002), amended LR 33:650 (April 2007), amended by the Department of Health, Office of Public Health, LR:45:

§107. Domestic Animals Bitten by Rabid Animals [formerly paragraph 3:004]

A. When bitten by a rabid animal, unvaccinated dogs, cats, or ferrets shall be destroyed immediately unless the owner is unwilling to have this done, in which case, the unvaccinated animal shall be confined (as described in §111) for four months for dogs and cats and six months for ferrets being released. A rabies vaccine shall be administered at the time of entry into quarantine (confinement) to bring the animal up to current rabies vaccination status. Administration of the vaccine shall be done as soon as possible. It is recommended that the period from exposure to vaccination not exceed 96 hours. If vaccination is delayed the official state public health veterinarian may consider increasing the quarantine period for dogs and cats from four to six months. Dogs, cats, or ferrets that are currently vaccinated shall be re-vaccinated immediately and confined (as described in §111) for 45 days.

1. Overdue dogs and cats. Dogs and cats that are overdue for a booster vaccination and that have appropriate documentation of having received a USDA-licensed rabies vaccine at least once previously shall immediately receive a booster vaccination and shall be kept under the owner's control and observed for 45 days. Dogs and cats that are overdue for a booster and without appropriate documentation of having received a USDA-licensed rabies vaccine at least once previously shall be:

a. treated as unvaccinated, immediately given a booster vaccination and placed in strict quarantine; or

b. the official state public health veterinarian may consider use of prospective serological monitoring (PSM) of the animal to document prior vaccination by providing evidence of an anamnestic response to booster vaccination. If the official state public health veterinarian authorizes PSM, the animal shall be strictly quarantined while PSM is performed. If the official state public health veterinarian confirms that PSM provides evidence of an anamnestic response, the period of strict quarantine may be ended, and the animal may be kept under the owner's control and

observed for 45 days. If there is inadequate evidence of an anamnestic response, the animal is considered to have never been vaccinated and shall be placed in strict quarantine for 4 to 6 months.

2. Overdue ferrets. Ferrets that are overdue for a booster shall be considered unvaccinated and shall be immediately vaccinated for rabies and strictly quarantined for 6 months.

B. – D. ...

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4(A)(2)(a), and R.S. 40:1269.3.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1223 (June 2002), amended LR 33:651 (April 2007), amended by the Department of Health, Office of Public Health, LR:45:

**§111. Confinement or Quarantine of Animals
[formerly paragraph 3:007]**

A. ...

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4A(2)(a), and R.S. 40:1269.3.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1224 (June 2002), amended LR 33:651 (April 2007), amended by the Department of Health, Office of Public Health, LR:45:

Family Impact Statement

(1) The effect on the stability of the family. There is no anticipated effect on the stability of the family.

(2) The effect on the authority and rights of parents regarding the education and supervision of their children. There is no anticipated effect on the authority and rights of parents regarding the education and supervision of their children

(3) The effect on the functioning of the family. There is no anticipated effect on the functioning of the family.

(4) The effect on the family earnings and family budget. There is no anticipated effect on the family earnings and family budget.

(5) The effect on the behavior and personal responsibility of children. There is no anticipated effect on the behavior and personal responsibility of children.

(6) The ability of the family or local government to perform the function as contained in the proposed rule. There is no anticipated effect on the ability of the family or local government to perform the function as contained in the proposed rule.

Poverty Impact Statement

(1.) The effect on household income, assets, and financial security. There is no anticipated effect on household income, assets, and financial security.

(2.) The effect on early childhood development and preschool through postsecondary education development. There is no anticipated effect on early childhood development and preschool through postsecondary education development.

(3.) The effect on employment and workforce development. There is no anticipated effect on employment and workforce development.

(4.) The effect on taxes and tax credits. There is no anticipated effect on taxes and tax credits.

(5.) The effect on child and dependent care, housing, health care, nutrition, transportation, and utilities assistance. There is no anticipated effect on child and dependent care, housing, health care, nutrition, transportation and utilities assistance.

Small Business Impact Statement

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

Provider Impact Statement

The proposed Rule should have minimal impact on providers as defined by HCR 170 of 2014 Regular Legislative Session.

Public Comments

Interested persons may submit written comments on the proposed Rule. Such comments must be received no later than Thursday, March 28, 2019 at COB, 4:30 pm, and should be addressed to DeAnn Gruber, Bureau Director, Bureau of Infectious Diseases, Office of Public Health, 1450 Poydras St., Ste. 2136, New Orleans, LA, 70112 or faxed to (504) 568-7044.

Public Hearing

Interested persons may submit a written request to conduct a public hearing either by U.S. mail to the Office of the Secretary ATTN: LDH Rulemaking Coordinator, Post Office Box 629, Baton Rouge, LA 70821-0629; however, such request must be received no later than 4:30 p.m. on March 11, 2019. If the criteria set forth in R.S. 49:953(A)(2)(a) are satisfied, LDH will conduct a public hearing at 10 am on Wednesday, March 27, 2019, in Room 118 of the Bienville Building, which is located at 628 North Fourth Street, Baton Rouge, LA. To confirm whether or not a public hearing will be held, interested persons should first call Stanley Bordelon at (225) 219-3454 after March 11, 2019. If a public hearing is to be held, all interested persons are invited to attend and present data, views, comments, or arguments, orally or in writing. In the event of a hearing, parking is available to the public in the Galvez Parking Garage which is located between North Sixth and North Fifth/North and Main Streets (cater-corner from the Bienville Building). Validated parking for the Galvez Garage may be available to public hearing attendees when the parking ticket is presented to LDH staff at the hearing.

Jimmy Guidry, MD
State Health Officer
and
Rebekah E. Gee, MD, MPH
Secretary

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

RULE TITLE: Public Health—Sanitary Code

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

The proposed rule change is anticipated to increase expenditures for the Office of Public Health (OPH) by approximately \$2,630 in FY 19 for the publication of the proposed rule. It is not anticipated that any other state or local governmental units will incur costs or savings as a result of this rule change.

The proposed rule updates the reporting criteria for several infectious diseases in order to bring Louisiana's reporting requirements in line with recommendations from the Council of State and Territorial Epidemiologists (CSTE) and the Centers for Disease Control and Prevention (CDC). The proposed rule also updates the guidelines for rabies vaccination intervals for dogs and cats and updates required actions for domestic animals bitten by rabid animals to conform to current national best practices. Additionally, the proposed rule updates the Louisiana Immunization schedule in accordance with the Advisory Committee on Immunization Practice (ACIP) of the United States Public Health Service.

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

There is no estimated effect on revenue collections of state or local governmental units.

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

The estimated costs to directly affected persons or nongovernmental groups is expected to be negligible. Hospitals, clinics, laboratories, and other facilities that report infectious diseases may be affected by the proposed rule. Due to the addition of diseases to the list of reportable conditions, there may be a slight increase in workload to support these reporting requirements. Most of the added conditions are uncommon and will not result in a substantial increase in reporting effort. Additionally, some diseases will now only be reportable by laboratories, rather than all healthcare facilities, reducing some of the overall burden of reporting.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule has no known effect on competition and employment.

Alexander Billioux, MD, DPhil
Assistant Secretary
1902#025

Evan Brasseaux
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Insurance
Office of the Commissioner**

**Regulation 89—Suitability in Annuity Transactions
(LAC 37:XIII.Chapter 117)**

The Department of Insurance, pursuant to the authority of the Louisiana Insurance Code, R.S. 22:1 et seq., and in accordance with the Administrative Procedure Act, R.S. 49:950 et seq., hereby gives notice of its intent to amend Regulation 89—Suitability in Annuity Transactions.

The purpose of the amendments to Regulation 89 is to adopt changes made to date to the National Association of Insurance Commissioners' Suitability in Annuity Transactions Model Regulation and to makes those changes consistent with the Louisiana Insurance Code.

Title 37

INSURANCE

Part XIII. Regulations

Chapter 117. Regulation Number 89—Suitability in Annuity Transactions

§11701. Purpose

A. The purpose of this regulation is to require insurers to establish a system to supervise recommendations and to set forth standards and procedures for recommendations to consumers that result in transactions involving annuity products so that the insurance needs and financial objectives of consumers at the time of the transaction are appropriately addressed.

B. ...

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

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 32:2268 (December 2006), amended LR 45:

§11703. Scope

A. This regulation shall apply to any recommendation to purchase, exchange, or replace an annuity made to a consumer by an insurance producer, or an insurer where no producer is involved, that results in the recommended purchase, exchange, or replacement.

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

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 32:2268 (December 2006), amended LR 45:

§11705. Authority

A. This regulation is promulgated under the authority of R.S. 22:11 and the auspices of R.S. 22:1961 et seq., referred to as "Unfair Trade Practices."

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

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 32:2268 (December 2006), amended LR 45:

§11707. Exemptions

A. Unless otherwise specifically included, this regulation shall not apply to transactions involving:

1. - 2.f. ...

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

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 32:2268 (December 2006), amended LR 45:

§11709. Definitions

Annuity—an annuity that is an insurance product under State law that is individually solicited, whether the product is classified as an individual or group annuity.

FINRA—the Financial Industry Regulatory Authority or a succeeding agency.

* * *

Recommendation—advice provided by an insurance producer, or an insurer where no producer is involved, to an individual consumer that results in a purchase, exchange, or replacement of an annuity in accordance with that advice.

Replacement—a transaction in which a new policy or contract is to be purchased, and it is known or should be known to the proposing producer, or to the proposing insurer if there is no producer, that by reason of the transaction, an existing policy or contract has been or is to be:

1. lapsed, forfeited, surrendered, or partially surrendered, assigned to the replacing insurer, or otherwise terminated;
2. converted to reduced paid-up insurance, continued as extended term insurance, or otherwise reduced in value by the use of nonforfeiture benefits, or other policy values;
3. amended so as to effect either a reduction in benefits or in the term for which coverage would otherwise remain in force or for which benefits would be paid;
4. reissued with any reduction in cash value; or
5. used in a financed purchase.

Suitability Information—information that is reasonably appropriate to determine the suitability of a recommendation, including the following:

1. age;
2. annual income;
3. financial situation and needs, including the financial resources used for the funding of the annuity;
4. financial experience;
5. financial objectives;
6. intended use of the annuity;
7. financial time horizon;
8. existing assets, including investment and life insurance holdings;
9. liquidity needs;
10. liquid net worth;
11. risk tolerance; and
12. tax status.

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

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 32:2268 (December 2006), amended LR 45:

§11711. Duties of Insurers and of Insurance Producers

A. In recommending to a consumer the purchase of an annuity or the exchange of an annuity that results in another insurance transaction or series of insurance transactions, the insurance producer, or the insurer where no producer is involved, shall have reasonable grounds for believing that the recommendation is suitable for the consumer on the basis of the facts disclosed by the consumer as to his or her investments and other insurance products and as to his or her financial situation and needs, including the consumer's suitability information, and that there is a reasonable basis to believe all of the following:

1. the consumer has been reasonably informed of various features of the annuity, such as the potential surrender period and surrender charge, potential tax penalty if the consumer sells, exchanges, surrenders, or annuitizes the annuity, mortality, and expense fees, investment advisory fees, potential charges for and features of riders, limitations on interest returns, insurance, and investment components and market risk;

2. the consumer would benefit from certain features of the annuity, such as tax-deferred growth, annuitization, or death or living benefit;

3. the particular annuity as a whole, the underlying subaccounts to which funds are allocated at the time of purchase or exchange of the annuity, and riders and similar product enhancements, if any, are suitable (and in the case of an exchange or replacement, the transaction as a whole is suitable) for the particular consumer based on his or her suitability information; and

4. in the case of an exchange or replacement of an annuity, the exchange or replacement is suitable including taking into consideration whether:

- a. the consumer will incur a surrender charge, be subject to the commencement of a new surrender period, lose existing benefits (such as death, living, or other contractual benefits), or be subject to increased fees, investment advisory fees, or charges for riders and similar product enhancements;

- b. the consumer would benefit from product enhancements and improvements; and

- c. the consumer has had another annuity exchange or replacement and, in particular, an exchange or replacement within the preceding 36 months.

5. The requirements of this Section are intended to supplement and not replace the disclosure requirements of any annuity disclosure regulation promulgated by the Louisiana Department of Insurance.

B. Prior to the execution of a purchase, exchange, or replacement of an annuity resulting from a recommendation, an insurance producer, or an insurer where no producer is involved, shall make reasonable efforts to obtain the consumer's suitability information.

C. Except as permitted under Subsection D, an insurer shall not issue an annuity recommended to a consumer unless there is a reasonable basis to believe the annuity is suitable based on the consumer's suitability information.

D.1. Except as provided under Paragraph 2 of this Subsection, neither an insurance producer, nor an insurer, shall have any obligation to a consumer under Subsection A or C related to any annuity transaction if:

- a. no recommendation is made;
- b. a recommendation was made and was later found to have been prepared based on materially inaccurate information provided by the consumer;
- c. a consumer refuses to provide relevant suitability information and the annuity transaction is not recommended; or
- d. a consumer decides to enter into an annuity transaction that is not based on a recommendation of the insurer or the insurance producer.

2. An insurer's issuance of an annuity subject to Paragraph 1 shall be reasonable under all the circumstances actually known to the insurer at the time the annuity is issued.

E. An insurance producer or, where no insurance producer is involved, the responsible insurer representative, shall at the time of the sale:

1. make a record of any recommendation subject to §11711.A;

2. obtain a customer signed statement documenting a customer's refusal to provide suitability information, if any; and

3. obtain a customer signed statement acknowledging that an annuity transaction is not recommended if a customer decides to enter into an annuity transaction that is not based on that insurance producer's or insurer's recommendation.

F.1. An insurer shall establish a supervision system that is reasonably designed to achieve the insurer's and its insurance producers' compliance with this regulation, including, but not limited to, the following:

a. the insurer shall maintain reasonable procedures to inform its insurance producers of the requirements of this regulation and shall incorporate the requirements of this regulation into relevant insurance producer training manuals;

b. the insurer shall establish standards for insurance producer product training and shall maintain reasonable procedures to require its insurance producers to comply with the requirements of R.S. 22:1576.

c. the insurer shall provide product-specific training and training materials which explain all material features of its annuity products to its insurance producers;

d. the insurer shall maintain procedures for review of each recommendation prior to issuance of an annuity that are designed to ensure that there is a reasonable basis to determine that recommendation is suitable. Such review procedures may apply a screening system for the purpose of identifying selected transactions for additional review and may be accomplished electronically or through other means including, but not limited to, physical review. Such an electronic or other system may be designed to require additional review only of those transactions identified for additional review by the selection criteria;

e. the insurer shall maintain reasonable procedures to detect recommendations that are not suitable. This may include, but is not limited to, confirmation of consumer suitability information, systematic customer surveys, interviews, confirmation letters, and programs of internal monitoring. Nothing in this Subparagraph prevents an insurer from complying with this Subparagraph by applying sampling procedures, or by confirming suitability information after issuance or delivery of the annuity; and

f. the insurer shall annually provide a report to senior management, including the senior manager responsible for audit functions, which details a review with appropriate testing, reasonably designed to determine the effectiveness of the supervision system, the exceptions found, and corrective action taken or recommended, if any.

2.a. Nothing in this Subsection restricts an insurer from contracting for performance of a function (including maintenance of procedures) required under Paragraph 1. An insurer is responsible for taking appropriate corrective action and may be subject to sanctions and penalties pursuant to §11713 regardless of whether the insurer contracts for performance of a function and regardless of the insurer's compliance with Subparagraph b of this Paragraph.

b. An insurer's supervision system under Paragraph 1 shall include supervision of contractual performance under this Subsection. This includes, but is not limited to, the following:

i. monitoring and, as appropriate, conducting audits to assure that the contracted function is properly performed; and

ii. annually obtaining a certification from a senior manager who has responsibility for the contracted function that the manager has a reasonable basis to represent, and does represent, that the function is properly performed.

3. An insurer is not required to include in its system of supervision an insurance producer's recommendations to consumers of products other than the annuities offered by the insurer.

G. An insurance producer shall not dissuade, or attempt to dissuade, a consumer from:

1. truthfully responding to an insurer's request for confirmation of suitability information;

2. filing a complaint; or

3. cooperating with the investigation of a complaint.

H.1. Sales made in compliance with FINRA requirements pertaining to suitability and supervision of annuity transactions (FINRA Rule 2330 and Rule 2111) shall satisfy the requirements under this regulation. This Subsection applies to FINRA broker-dealer sales of annuities if the suitability and supervision is similar to those applied to variable annuity sales. However, nothing in this Subsection shall limit the insurance commissioner's ability to enforce (including investigate) the provisions of this regulation.

2. For Paragraph 1 to apply, an insurer shall:

a. monitor the FINRA member broker-dealer using information collected in the normal course of an insurer's business; and

b. provide to the FINRA member broker-dealer information and reports that are reasonably appropriate to assist the FINRA member broker-dealer to maintain its supervision system.

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

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 32:2268 (December 2006), amended LR 45:

§11713. Compliance Mitigation; Penalties

A. An insurer is responsible for compliance with this regulation. If a violation occurs, either because of the action or inaction of the insurer or its insurance producer, the commissioner may order:

1. ...

2. a general agency, independent agency, or the insurance producer to take reasonably appropriate corrective action for any consumer harmed by the insurance producer's violation of this regulation; and

3. appropriate penalties and sanctions.

B. In determining appropriate penalties and sanctions pursuant to R.S. 22:1969 for a violation of §11711.A, B, or C.2 of this regulation, the commissioner may consider whether corrective action for the consumer was taken promptly after a violation was discovered or the violation was not part of a pattern or practice.

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

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 32:2268 (December 2006), amended LR 45:

§11715. Recordkeeping

A. Insurers, general agents, independent agencies and insurance producers shall maintain or be able to make available to the commissioner records of the information collected from the consumer and other information used in making the recommendations that were the basis for insurance transactions for 5 years after the insurance transaction is completed by the insurer. An insurer is permitted, but shall not be required, to maintain documentation on behalf of an insurance producer.

B. ...

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

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 32:2268 (December 2006), amended LR 45:

§11717. Severability

A. ...

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

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 32:2268 (December 2006), repromulgated LR 45:

§11719. Effective Date

A. Regulation 89, as amended, shall become effective upon final promulgation in the *Louisiana Register*.

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

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 45:

Family Impact Statement

I. Describe the effect of the proposed regulation on the stability of the family. The proposed regulation should have no measurable impact upon the stability of the family.

II. Describe the effect of the proposed regulation on the authority and rights of parents regarding the education and supervision of their children. The proposed regulation should have no impact upon the rights and authority of children regarding the education and supervision of their children.

III. Describe the effect of the proposed regulation on the functioning of the family. The proposed regulation should have no direct impact upon the functioning of the family.

IV. Describe the effect of the proposed regulation on family earnings and budget. The proposed regulation should have no direct impact upon family earnings and budget.

V. Describe the effect of the proposed regulation on the behavior and personal responsibility of children. The proposed regulation should have no impact upon the behavior and personal responsibility of children.

VI. Describe the effect of the proposed regulation on the ability of the family or a local government to perform the function as contained in the rule. The proposed regulation should have no impact upon the ability of the family or a local governmental unit to perform the function as contained in the rule.

Poverty Impact Statement

I. Describe the effect on household income, assets, and financial security. The proposed regulation should have no effect on household income assets and financial security.

II. Describe the effect on early childhood development and preschool through postsecondary education development. The proposed regulation should have no effect

on early childhood development and preschool through postsecondary education development.

III. Describe the effect on employment and workforce development. The proposed regulation should have no effect on employment and workforce development.

IV. Describe the effect on taxes and tax credits. The proposed regulation should have no effect on taxes and tax credits.

V. Describe the effect on child and dependent care, housing, health care, nutrition, transportation and utilities assistance. The proposed regulation should have no effect on child and dependent care, housing, health care, nutrition, transportation and utilities assistance.

Small Business Statement

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

I. Identification and estimate of the number of the small businesses subject to the proposed rule. The proposed regulation should have no measurable impact upon small businesses.

II. The projected reporting, record keeping, and other administrative costs required for compliance with the proposed rule, including the type of professional skills necessary for preparation of the report or record. The proposed regulation should have no measurable impact upon small businesses.

III. A statement of the probable effect on impacted small businesses. The proposed regulation should have no measurable impact upon small businesses.

IV. Describe any less intrusive or less costly alternative methods of achieving the purpose of the proposed rule. The proposed regulation should have no measurable impact on small businesses; therefore, will have no less intrusive or less cost alternative methods.

Provider Impact Statement

I. Describe the effect on the staffing level requirements or qualifications required to provide the same level of service. The proposed regulation will have no effect.

II. The total direct and indirect effect on the cost to the provider to provide the same level of service. The proposed regulation will have no effect.

III. The overall effect on the ability of the provider to provide the same level of service. The proposed regulation will have no effect.

Public Comments

All interested persons are invited to submit written comments on the proposed regulation. Such comments must be received no later than March 22, 2019, by 4:30 p.m. and should be addressed to Lynette Roberson, Louisiana Department of Insurance, and may be mailed to P.O. Box 94214, Baton Rouge, LA 70804-9214. If comments are to be

shipped or hand-delivered, please deliver to Poydras Building, 1702 North Third Street, Baton Rouge, LA 70802.

James J. Donelon
Commissioner

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

**RULE TITLE: Regulation 89
Suitability in Annuity Transactions**

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

The proposed rule changes will not result in additional costs or savings for the state or local governmental units. The proposed rule changes amend certain administrative rules to align them with the National Association of Insurance Commissioners' (NAIC) Suitability in Annuity Transactions Model Regulation. Revisions to the administrative rules clarify and add more structure to present practices and procedures associated with annuity transactions between insurers and consumers.

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

The proposed rule changes will not affect revenue collections for state or local governmental units.

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

The proposed rule changes will protect insurers and consumers by clarifying and providing more structural guidelines regarding suitability in annuity transactions. The proposed rule changes clearly define what constitutes "suitability information" for consumers in annuity transactions, as well as clarify and elaborate the duties of insurers and insurance producers in such transactions. Furthermore, the proposed rule changes clarify and elaborate on the responsibilities of insurers to comply with regulations on suitability in annuity transactions and clarify penalties that may be levied by the LA Dept. of Insurance (LDI) in the event insurers violate the administrative rules. Lastly, the proposed rule changes increase the length of time insurers and insurance producers must maintain records associated with annuity transactions by 2 years, from 3 years to 5 years.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT
(Summary)**

The proposed rule changes will not affect competition or employment.

Nicholas Lorusso
Chief Deputy Commissioner
1902#033

Evan Brasseaux
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Public Safety and Corrections
Corrections Services**

Administrative Remedy Procedure (LAC 22:I.325)

In accordance with the provisions of the Administrative Procedure Act (R.S. 49:950), the Department of Public Safety and Corrections, Corrections Services, hereby amends the contents of Section 325, Administrative Remedy Procedure.

The full text of this Rule may be viewed in the Emergency Rule section of this edition of the *Louisiana Register*.

Family Impact Statement

Amendment to the current Rule should not have any known or foreseeable impact on family formation, stability or autonomy, as described in R.S. 49:972.

Poverty Impact Statement

The proposed Rule should not have any known or foreseeable impact on poverty as described in R.S. 49:973.

Provider Impact Statement

The proposed Rule should not have any known or foreseeable impact on providers as defined by HCR 170 of the 2014 Regular Legislative Session.

Public Comments

Written comments may be addressed to Natalie LaBorde, Executive Counsel, Department of Public Safety and Corrections, P. O. Box 94304, Baton Rouge, LA 70804 until 4:30 p.m. on March 12, 2019.

James M. Le Blanc
Secretary

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

RULE TITLE: Administrative Remedy Procedure

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

The proposed rule change will have no impact on State or Local Governmental Unit expenditures. The proposed rule change updates and revises LAC 22:1.325 (Administrative Remedy Procedure) regarding how offenders may request an accommodation under the Americans with Disabilities Act in accordance with the provisions of the Administrative Procedure Act (R.S. 49:950). This change will constitute the Department's "Administrative Remedy Procedure" for offenders as a regulation.

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

There will be no effect on revenue collections of state or local governmental units as a result of the proposed rule change.

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

There is no estimated cost and/or economic benefit to directly affected persons or non-governmental groups as a result of the proposed rule change.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT
(Summary)**

There is no estimated effect on competition and employment as a result of the proposed rule change.

Thomas C. Bickham, III
Undersecretary
1902#058

Evan Brasseaux
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Public Safety and Corrections
Corrections Services**

Lost Property Claims (LAC 22:I.369)

The Department of Public Safety and Corrections, Corrections Services, in accordance with R.S. 36:404, hereby gives notice of its intent to repeal LAC 22:I.369, Lost Property Claims in its entirety. This repeal is a technical

adjustment as the information is promulgated in §325 and will remain intact and enforced as a department regulation.

Title 22

CORRECTIONS, CRIMINAL JUSTICE AND LAW ENFORCEMENT

Part I. Corrections

Chapter 3. Adult Services

§369. Lost Property Claims

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15823.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of Adult Services, LR 19:657 (May 1993), amended LR 28:856 (April 2002), repealed by the Department of Public Safety and Corrections, Corrections Services, LR 45:

Family Impact Statement

Repeal of the current Rule should not have any known or foreseeable impact on family formation, stability or autonomy, as described in R.S. 49:972.

Poverty Impact Statement

Repeal of the current Rule should not have any known or foreseeable impact on poverty as described in R.S. 49:973.

Provider Impact Statement

Repeal of the current Rule should not have any known or foreseeable impact on providers as defined by HCR 170 of the 2014 Regular Legislative Session.

Public Comments

Written comments may be addressed to Natalie LaBorde, Executive Counsel, Department of Public Safety and Corrections, P. O. Box 94304, Baton Rouge, LA 70804 until 4:30 p.m. on March 12, 1019.

James M. Le Blanc
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Lost Property Claims

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

There will be no fiscal impact on State or Local Governmental Unit expenditures, as it is a technical adjustment associated with repealing LAC 22:1.369 (Lost Property Claims). The relevant provisions with regard to lost property claims will be addressed in a new section addressed under a separate rule filing.

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

There will be no effect on revenue collections of state or local governmental units since this is a technical adjustment.

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

There is no estimated cost and/or economic benefit to directly affected persons or non-governmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no estimated effect on competition and employment.

Thomas C. Bickham, III
Undersecretary
1902#059

Evan Brasseaux
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Public Safety and Corrections
Gaming Control Board**

Gaming Operations Relocation (LAC 42:III.2401)

The Department of Public Safety and Corrections, Louisiana Gaming Control Board, in accordance with R.S. 27:15, R.S. 27:24, and the provisions of the Administrative Procedures Act, R.S. 49:950 et seq., hereby gives notice that it intends to amend LAC 42.III.2401, Relocation of Gaming Operations to a Facility, Procedure. This rule change clarifies practices already required to take place in the industry and creates uniformity with the amended statutes and the newly enacted statutes as a result of Act 469 of the 2018 Regular Legislative Session. The rule change allows for the consideration of past economic development in the relocation of gaming operations to a facility.

Title 42

LOUISIANA GAMING

Part III. Gaming Control Board

Chapter 24. Relocation of Gaming Operations

§2401. Relocation of Gaming Operations to a Facility, Procedure

A. - B.1.h. ...

2. If substantial completion of a riverboat vessel and approved project was completed after January 1, 2005 (with a minimum monetary investment of \$200 million), the board will consider this past economic investment and may allow not more than 6 percent of the gaming positions as provided in R.S. 27:44 to be located in an existing structure which is part of the approved project. The licensee shall request the change to the designated gaming area by filing a petition detailing the date of substantial completion and the monetary investment and shall include the following:

- a. a site plan designating the licensee's current approved berth site and the location of the existing structure;
- b. a legal property description of the land owned or leased by the licensee on which the structure is located;
- c. a detailed plan for staffing, installation of gaming devices and equipment, security and surveillance, and a date for the commencement of gaming activities at the site; and
- d. any other information, documentation, plan, or description requested by the board or division.

C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 44:2217 (December 2018), amended LR 45:

Family Impact Statement

Pursuant to the provisions of R.S. 49:972, the Gaming Control Board, through its chairman, has considered the potential family impact of the proposed Rule.

It is accordingly concluded that the proposed Rule would appear to have no impact on the following:

- 1. The effect on stability of the family.
- 2. The effect on the authority and rights of parents regarding the education and supervision of their children.
- 3. The effect on the functioning of the family.
- 4. The effect on family earnings and family budget.

5. The effect on the behavior and personal responsibility of children.

6. The ability of the family or a local government to perform the function as contained in the proposed rule.

Poverty Impact Statement

Pursuant to the provisions of R.S. 49:973, the Gaming Control Board, through its chairman, has considered the potential poverty impact of the proposed Rule.

It is accordingly concluded that the proposed Rule would appear to have no impact on the following:

1. The effect on household income, assets, and financial security.

2. The effect on early childhood development and preschool through postsecondary education development.

3. The effect on employment and workforce development.

4. The effect on taxes and tax credits.

5. The effect on child and dependent care, housing, health care, nutrition, transportation, and utilities assistance.

Small Business Impact Statement

Pursuant to the provisions of R.S. 49:965.5 the Louisiana Gaming Control Board, through its chairman, has concluded that the proposed Rule is not expected to have a significant impact on small business.

Provider Impact Statement

Pursuant to the provisions of HCR170 of 2014, the Gaming Control Board, through its chairman, has considered the potential provider impact of the proposed Rule.

It is accordingly concluded that the proposed Rule would appear to have no impact on the following:

1. The effect on the staffing level requirements or qualifications required to provide the same level of service.

2. The total direct and indirect effect on the costs to the provider to provide the same level of service.

3. The overall effect on the ability of the provider to provide the same level of service.

Public Comments

Interested persons may submit written comments to Earl G. Pitre, Jr., Assistant Attorney General, Louisiana Department of Justice, Gaming Division, 1885 North Third Street, Fifth Floor, Baton Rouge, LA 70802. All comments must be submitted no later than March 11, 2019.

Ronnie Jones
Chairman

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Gaming Operations Relocation

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

The proposed rule change may result in a minimal workload increase for the Gaming Control Board related to processing new applications and inspecting additional gaming space. The Board anticipates it can absorb any potential workload increases using existing budget authority and resources. The proposed rule change codifies Act 469 of 2018 related to application for the relocation of gaming operations to a facility within 1,200 feet of the riverboat's licensed berth. The board will consider past economic investment and may allow no more than 6 percent of the gaming positions as provided in R.S. 27:44 to be located in an existing structure,

which is part of the approved project. At the time of this publication, there are only four boats that would be qualified to implement these provisions.

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

The proposed rule change will have an indeterminate impact on revenue collections of state and local governmental units. The potential relocation of 6 percent of gaming as provided in R.S. 27:44 may impact consumer behavior in an indeterminate manner that may increase or decrease state and local revenues or may shift activities between facilities. To the extent the proposed rule change expands gaming activity, revenue may increase at the statewide or local level; however, the proposed rule change may shift gaming activity between localities and certain local revenues may grow or shrink as a result of the shift.

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

The proposed rule change will result in an indeterminate impact on costs and economic benefits to licensed riverboats. Eligible riverboats will be authorized to relocate no more than 6 percent of the gaming positions in an existing and approved structure and location that may result in indeterminable costs or economic benefits.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule change will result in an indeterminate impact on competition and employment. Licensees that meet the criteria established in the proposed rule change may have a significant advantage over those licensees who have not. To the extent the proposed rule change shifts gaming activity, competition and employment may expand or contract between localities.

Ronnie Jones
Chairman
1902#053

Evan Brasseaux
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Public Safety and Corrections Gaming Control Board

Non-Gaming Suppliers (LAC 42:III.2108)

The Department of Public Safety and Corrections, Louisiana Gaming Control Board, in accordance with R.S. 27:15, R.S. 27:24, and the provisions of the Administrative Procedures Act, R.S. 49:950 et seq., hereby gives notice that it intends to amend LAC 42:III.2108, Non-Gaming Suppliers. This rule change clarifies practices already required to take place in the industry and creates uniformity with the amended statute as a result of Act 685 of the 2018 Regular Legislative Session. The rule change establishes the monetary amount of good and services at which point a non-gaming permit is required.

Title 42

LOUISIANA GAMING

Part III. Gaming Control Board

Chapter 21. Licenses and Permits

§2108. Non-Gaming Suppliers

A. A non-gaming supplier shall not apply for a non-gaming supplier permit unless it reasonably foresees supplying goods or services and/or receiving payment for goods or services from a licensee or casino operator for an

amount equal to or greater than five hundred thousand dollars per calendar year. Any non-gaming supplier, regardless of whether having been permitted or not and regardless of the dollar amount of goods or services provided to a licensee or casino operator, may be required by the board or division to apply to the division for a finding of suitability.

B. A non-gaming supplier shall be prohibited from supplying goods or services to, and/or receive payment for goods or services from, a licensee or casino operator of an amount equal to or greater than five hundred thousand dollars during any calendar year, unless such non-gaming supplier holds a valid non-gaming supplier permit, an exemption pursuant to the provisions of Subsection C of this Section, or a waiver pursuant to the provisions of Subsection E of this Section.

C. - D. ...

E. Any non-gaming supplier required to obtain a non-gaming supplier permit, other than those listed in Subsection C of this Section, may request a waiver of the necessity of obtaining a non-gaming supplier permit. The division may grant such a request upon showing of good cause by the non-gaming supplier. The division may rescind any such waiver which has been previously granted upon written notice to the non-gaming supplier.

F. ...

G. Each licensee and casino operator shall submit to the division, on a quarterly basis, a report containing a list of all non-gaming suppliers that have received \$10,000 or more from the licensee or casino operator during the previous quarter, or an amount equal to or greater than \$500,000 during the preceding calendar year as payment for providing non-gaming services or goods. This report shall include the name and address of the supplier, a description of the type of goods or services provided, the supplier's non-gaming supplier permit number if paid an amount equal to or greater than \$500,000 during the year included in the report, federal tax identification number, and the total amount of all payments made by the licensee or casino operator, or any person acting on behalf of the licensee or casino operator, to each supplier. The report shall be sent to the division no later than 20 days after the end of each quarter.

H. - I.9. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 38:1609 (July 2012), amended LR 41:1497 (August 2015), amended LR 45:

Family Impact Statement

Pursuant to the provisions of R.S. 49:972, the Gaming Control Board, through its chairman, has considered the potential family impact of the proposed Rule.

It is accordingly concluded that the proposed Rule would appear to have no impact on the following:

1. the effect on stability of the family;
2. the effect on the authority and rights of parents regarding the education and supervision of their children;
3. the effect on the functioning of the family;
4. the effect on family earnings and family budget;
5. the effect on the behavior and personal responsibility of children;
6. the ability of the family or a local government to perform the function as contained in the proposed rule.

Poverty Impact Statement

Pursuant to the provisions of R.S. 49:973, the Gaming Control Board, through its chairman, has considered the potential poverty impact of the proposed Rule.

It is accordingly concluded that the proposed Rule would appear to have no impact on the following:

1. the effect on household income, assets, and financial security;
2. the effect on early childhood development and preschool through postsecondary education development;
3. the effect on employment and workforce development;
4. the effect on taxes and tax credits;
5. the effect on child and dependent care, housing, health care, nutrition, transportation, and utilities assistance.

Small Business Impact Statement

Pursuant to the provisions of La. R.S. 49:965.5 the Louisiana Gaming Control Board, through its chairman, has concluded that the proposed Rule is not expected to have a significant impact on small business.

Provider Impact Statement

Pursuant to the provisions of HCR170 of 2014, the Gaming Control Board, through its chairman, has considered the potential provider impact of the proposed Rule.

It is accordingly concluded that the proposed Rule would appear to have no impact on the following:

1. the effect on the staffing level requirements or qualifications required to provide the same level of service;
2. the total direct and indirect effect on the costs to the provider to provide the same level of service;
3. the overall effect on the ability of the provider to provide the same level of service.

Public Comments

Interested persons may submit written comments to Earl G. Pitre, Jr., Assistant Attorney General, Louisiana Department of Justice, Gaming Division, 1885 North Third Street, Fifth Floor, Baton Rouge, LA 70802. All comments must be submitted no later than March 11, 2019.

Ronnie Jones
Chairman

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Non-Gaming Suppliers

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

The proposed rule change is not anticipated to have any implementation costs or savings to state or local governmental units. The proposed rule change codifies Act 685 of 2018 that authorized the board to define the threshold amount of goods and services for which a non-gaming supplier permit is required. The current threshold imposed is \$200,000 per calendar year and the proposed rule change will increase the threshold amount to \$500,000 per calendar year. The proposed rule change also provides that any non-gaming supplier may be required by the board or division to apply to the division for a finding of suitability regardless of whether having been permitted or not and regardless of the dollar amount of goods or services provided to a gaming operator, or slot machine or riverboat gaming licensee.

The proposed rule change may result in a minimal workload decrease for the Gaming Control Board related to

fewer new applications from non-gaming suppliers. However, it cannot be determined at this time whether these non-gaming suppliers will still apply for this permit regardless of the threshold due to a request by gaming industry clients or partners.

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

The proposed rule change will result in an indeterminate impact on revenue collections for the Department of Public Safety (DPS). Non-gaming suppliers pay an application fee of \$250 to obtain a non-gaming supplier permit. In 2017, there were 342 suppliers submitting an application for this permit that generated \$85,500 (\$250*342) that is deposited into the Riverboat Gaming Enforcement Fund. Of these 342 suppliers, 179 did not meet the current \$200,000 threshold, but these suppliers were requested by gaming industry clients or partners to pay this permit. Non-gaming suppliers and non-gaming supplier permittees may potentially increase their amount of good and services or may no longer meet the threshold to be required to pay the permit fee, but whether this will shrink overall revenue collections of state and local governmental units or shift revenues between localities is unknown.

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

The proposed rule change will have an indeterminate impact on costs and economic benefits for the gaming operator, slot machine gaming licensees, and riverboat gaming licensees. To the extent an operator or licensee no longer is required to pay this permit fee due to the proposed increase in the threshold, the operator would benefit from the proposed rule change. However, it cannot be determined whether non-gaming supplier and eligible non-gaming supplier permittees will increase the number of goods and services to a gaming operator, or slot machine or riverboat gaming licensee or whether they will continue to pay this permit fee due to a request by gaming industry clients or partners.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule change is anticipated to have a minimal impact on competition and employment. Whether or not non-gaming suppliers and eligible non-gaming supplier permittees will choose to increase the number of goods and services to a gaming operator, or slot machine or riverboat gaming licensee resulting in costs or economic benefits to them is unknown. To the degree that the proposed rule change may result in an increase of goods and services, competition, and employment may expand or contract at the statewide or local level.

Ronnie Jones
Chairman
1902#054

Evan Brasseaux
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of State
Elections Division**

**Voter Registration at Driver's License Facilities
(LAC 31:II.303-313)**

The Department of State, pursuant to the provisions of the Administrative Procedure Act (R.S. 49:950 et seq.) and under the authority of R.S. 18:114, R.S. 18:1461, R.S. 18:1461.2, R.S. 18:1461.4, and R.S. 36:742, is proposing to amend the Rule for voter registration at driver's license facilities. The proposed effective date of this Rule would be upon publication in the *Louisiana Register*.

Title 31

ELECTIONS

Part II. Voter Registration

Chapter 3. Voter Registration at Driver's License Facilities

§303. Secretary of State

A. It will be the policy of the secretary of state to facilitate the implementation and support of the program for voter registration at driver's license facilities. The secretary of state will coordinate the activities of the parish registrars of voters with the Department of Public Safety and Corrections, and for that purpose, he shall:

1. provide the Department of Public Safety and Corrections with updates on the names and addresses of the parish registrars of voters;

2. provide the Department of Public Safety and Corrections standard notices to be displayed informing the public of the availability of voter registration at driver's license facilities and the eligibility requirements for registration;

3. design in conjunction with the Department of Public Safety and Corrections an electronic voter registration application form and provide paper voter registration applications to be used under emergency and unusual situations;

4. provide training materials to be used for voter registration; and

5. prepare a biannual report as required by the U.S. Election Assistance Commission.

AUTHORITY NOTE: Promulgated in accordance with R.S. 18:114.

HISTORICAL NOTE: Promulgated by Department of Elections and Registration, Commissioner of Elections, LR 16:606 (July 1990), amended LR 20:1373 (December 1994), amended by the Department of State, Elections Division, LR 45:

§305. Parish Registrars of Voters

A. It is the intention of the parish registrars of voters to cooperate fully in the registration of voters at driver's license facilities. In that regard, parish registrars shall:

1. notify the Department of State immediately of any change in the office mailing address of the registrar of voters;

2. upon receipt in the registrar's office of a voter registration application form from any driver's license facility located within his parish, indicate the date received for the application in the Election and Registration Information Network (ERIN) system;

3. determine the parish in which the applicant seeks to register, or if already registered, seeks to change his name or address and, if not his parish, transmit to the appropriate registrar of voters;

4. review such voter registration application form to determine if the applicant is eligible to register to vote in accordance with law; and

5. if there is a change of name or address for a registered voter, process such change and mail a new voter identification card to the voter.

B. The offices of the registrars of voters shall utilize the ERIN system for processing voter registration application forms that are received from the Office of Motor Vehicles (OMV).

AUTHORITY NOTE: Promulgated in accordance with R.S. 18:114.

HISTORICAL NOTE: Promulgated by the Department of Elections and Registration, Commissioner of Elections, LR 16:606 (July 1990), amended LR 20:1373 (December 1994), amended by the Department of State, Elections Division, LR 45:

§307. Authorized Employees at Driver's License Facilities

A. Definition

Authorized Employee or an *Authorized Employee of a Driver's License Facility*—any official or employee of the Department of Public Safety and Corrections or an official or employee of a contractor of the Department of Public Safety and Corrections.

B. Qualifications. An authorized employee at a driver's license facility shall possess the following qualifications:

1. the person shall be an official or employee of the Department of Public Safety and Corrections or an official or employee of a contractor of the Department of Public Safety and Corrections who is employed at a facility for the issuance of Louisiana driver's license or Louisiana identification cards;
2. the person shall have received in-service training;
3. the person shall not participate or engage in any political activity, except to exercise his right as a citizen to express his opinion privately and to cast his vote as he desires;
4. the person shall not have been convicted of any election offense; and
5. the person shall not be a candidate for public office.

C. Duties. An authorized employee at a driver's license facility shall perform the duties listed below.

1. During regular working hours, an authorized employee shall offer voter registration to any U.S. citizen who obtains, renews, or changes the name or address on a Louisiana Driver's License or Louisiana Identification Cards:

- a. a person who is at least 16 years of age and who is an actual resident of the state, parish, and precinct in which he seeks to register to vote; however, the person will not be eligible to vote until the age of 18;
- b. a person who is not under an order of imprisonment for conviction of a felony as defined in R.S. 18:2(2), except as provided in R.S. 18:102(A)(1)(b) and R.S. 18:102(A)(1)(c);
- c. a person who has not been interdicted after being declared to be mentally incompetent as a result of a full interdiction or is not subject to a limited interdiction where the person's right to vote has been suspended; and
- d. a person who is a United States citizen.

2. An authorized employee shall allow an applicant who resides at more than one place in the state with an intention to reside there indefinitely, to choose which residence will be used for registration purposes. However, if the applicant has a homestead exemption, he must register and vote in the precinct in which that residence is located. The exceptions to this provision are:

- a. if the person resides in a nursing home (as defined in R.S. 18:333(A)) or in a veterans' home, he may register and vote at the address where the nursing home or veterans' home is located or where he has a homestead exemption; or
- b. if the person is a bona fide full-time student attending an institution of higher learning in this state, he may choose as his residence and may register to vote either

at the place where he resides while attending the institution of higher learning or at the place where he resides when not attending such institution of higher learning.

3. An authorized employee shall assist any applicant who requests assistance in registering to vote. Such assistance may consist of answering any question the person might have about completing the registration form and shall include assistance in the completion and execution of an application, if requested by the applicant. Additionally, if the person has a physical disability or is unable to read or write English, such assistance shall include:

- a. reading the document to the applicant;
- b. executing the document by writing what the person dictates or what is said through an interpreter; and
- c. allowing the person to sign, or if unable to sign, to make his mark in front of two witnesses who shall also sign.

4. An authorized employee shall require the applicant to provide sufficient information to establish his age, identity, and residency.

5. An authorized employee shall inform an applicant that if he does not declare a political party affiliation that his voter registration application shall indicate "No Party" on the application form.

6. An authorized employee shall ensure that the information provided on the voter registration application is legible and to the best of his knowledge accurate and complete.

7. An authorized employee shall administer any oath required on the voter registration application, as authorized by R.S. 18:114(F)(7).

8. An authorized employee shall inform the applicant that the applicant is not officially registered to vote until the application has been received and approved by the parish registrar of voters. Upon approval by the registrar of voters, a voter identification card will be mailed to the applicant.

9. An authorized employee shall ensure that the completed electronic voter registration application is transmitted immediately to the Department of State who shall transmit the application daily to the appropriate parish registrar of voters. The date and time of transmission shall automatically be recorded for electronic submissions. An authorized employee shall ensure that a completed paper application is made available to the designated person of the Department of Public Safety and Corrections or its contractor who will be responsible for transmittal to the parish registrar of voters for the parish in which the driver's license facility is located. On the paper voter registration application, the employee shall circle "MV", sign, and date the bottom of each paper application before transmitting to the Department of Public Safety and Corrections or its contractor. For a paper voter registration application, the date of transmittal shall be indicated on the application, and the transmittal shall be made within five working days of the completion of the application form unless the application is accepted within five days before the last day for registration then the application form shall be transmitted at the conclusion of each business day.

10. An authorized employee shall ask any person making a change of name or a change of address on a Louisiana Driver's License or Louisiana Identification Card if such change is to be used for voter registration purposes.

If affirmed, such change shall be transmitted in the same manner as a voter registration application form.

11. An authorized employee shall keep any declinations to register to vote confidential, and shall keep confidential the fact that any particular applicant has submitted an application to register to vote at a driver's license facility. All declinations shall be written and signed by the voter. All such applications and declinations to register to vote shall be used only for voter registration purposes.

C. Offenses. No person authorized to accept voter registration application forms shall knowingly, willfully, or intentionally:

1. offer, promise, solicit, or accept money or anything of present or prospective value to secure or influence a vote or registration of a voter;
2. forge, alter, deface, destroy, or remove from proper custodial care any application for voter registration; or
3. intimidate, directly or indirectly, any prospective voter in matters concerning registration or nonregistration.

D. Penalties

1. Any authorized employee who commits an offense as provided herein shall be subject to the penalties provided in R.S. 18:1461, R.S. 18:1461.2, or R.S. 18:1461.4.

2. Any authorized employee who fails to comply with the provisions of law relative to registration at driver's license facilities shall be subject to the penalties established in R.S. 18:114(H).

AUTHORITY NOTE: Promulgated in accordance with R.S. 18:114, R.S. 18:2(2), R.S. 18:62, R.S. 18:101, R.S. 18:102, R.S. 18:105, R.S. 18:106, R.S. 18:1461, R.S. 18:1461.2, and R.S. 18:1461.4.

HISTORICAL NOTE: Promulgated by the Department of Elections and Registration, Commissioner of Elections, LR 16:607 (July 1990), amended LR 20:1373 (December 1994), amended by the Department of State, Elections Division, LR 45:

§309. Training

A. The Department of State and/or the registrar of voters shall train designated personnel of the Department of Public Safety and Corrections to conduct in-service training. In-service training will be provided to all employees authorized to accept voter registration application forms by these personnel.

B. The training shall include, but shall not be limited to, the following:

1. review responsibility of an authorized employee to offer voter registration;
2. conduct study of the voter registration application with special emphasis on problem areas;
3. discuss information that may be used to establish applicant's age, identity, and residency;
4. discuss assistance that may be provided to applicant;
5. review responsibilities of an authorized employee in ensuring accuracy and legibility of voter registration application and stressing the authorized employee's responsibility for informing the applicant that the applicant is not registered until the parish registrar notifies the applicant of registration;
6. review declination requirements that must be done in writing and signed by the applicant;
7. review transmittal requirements;
8. review offenses; and

9. review penalties established in R.S. 18:114(H) for noncompliance with the provisions of law relative to voter registration at driver's license facilities and in R.S. 18:1461, R.S. 18:1461.2, and R.S. 18:1461.4 relative to voter registration in general.

AUTHORITY NOTE: Promulgated in accordance with R.S. 18:114, R.S. 18:104 -18:106, R.S. 18:1461, R.S. 18:1461.2, and R.S. 18:1461.4.

HISTORICAL NOTE: Promulgated by the Department of Elections and Registration, Commissioner of Elections, LR 16:608 (July 1990), amended LR 20:1374 (December 1994), amended by the Department of State, Elections Division, LR 45:

§311. Review Process

A. An annual meeting between the Department of State and the Department of Public Safety and Corrections shall be held during the first quarter of each year to monitor any problem areas where changes in rules and regulations or the revised statutes may be necessary. The annual meeting may be discontinued upon mutual agreement when it is felt there is no longer a need to continue to hold such meetings.

AUTHORITY NOTE: Promulgated in accordance with R.S. 18:114.

HISTORICAL NOTE: Promulgated by the Department of Elections and Registration, Commissioner of Elections, LR 16:608 (July 1990), amended LR 20:1374 (December 1994), amended by the Department of State, Elections Division, LR 45:

§313. Implementation

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 18:114.

HISTORICAL NOTE: Promulgated by the Department of Elections and Registration, Commissioner of Elections, LR 16:608 (July 1990), amended LR 20:1374 (December 1994), repealed by the Department of State, Elections Division, LR 45:

Family Impact Statement

The proposed amendments to the Rule cited in LAC 31:II.Chapter 3 regarding voter registration at drivers' licenses facilities should not have any known or foreseeable impact on any family as defined by R.S. 49:927 or on family formation, stability and autonomy. Specifically, there should be no known or foreseeable effect on:

1. the stability of the family;
2. the authority and rights of parents regarding the education and supervision of their children;
3. the functioning of the family;
4. family earnings and family budget;
5. the behavior and personal responsibility of children; and
6. the ability of the family or a local government to perform the function as contained in the proposed amendments to the Rule.

Poverty Impact Statement

The proposed amendments to the Rule cited in LAC 31:II.Chapter 3 regarding voter registration at drivers' license facilities should not have any known or foreseeable impact on poverty as defined by R.S. 49:973. Specifically, there should be no known or foreseeable effect on:

1. the household income, assets and financial security;
2. early childhood development and preschool through postsecondary education development;
3. employment and workforce development;
4. taxes and tax credits; and
5. child and dependent care, housing, health care, nutrition, transportation, and utilities assistance.

Small Business Statement

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

Provider Impact Statement

The proposed amendments to the Rule does not have any known or unforeseeable impact on providers as defined by HCR 170 of the 2014 Regular Legislative Session. In particular, there should be no known or foreseeable effect on:

- the effect on the staffing level requirements or qualifications required to provide the same level of service;
- the total direct and indirect effect on the cost to the providers to provide the same level of service; or
- the overall effect on the ability of the provider to provide the same level of service.

Public Comments

Interested persons may submit written comments to Jodie Henderson, Attorney, Legal Division, Department of State, P.O. Box 94125, Baton Rouge, LA 70804-9125. She will be responsible for responding to inquiries regarding the proposed amendments to various sections of the Rule. The deadline for the Department of State to receive written comments is 4:30 p.m. on Wednesday, March 27, 2019.

Public Hearing

A public hearing on the proposed Rule is scheduled for Tuesday, March 26, 2019 at 1:00 p.m. in the Auditorium at the State Archives Building, 3851 Essen Lane, Baton Rouge, LA. At that time, all interested persons will be afforded the opportunity to submit data, views, or arguments either orally or in writing.

R. Kyle Ardoin
Secretary of State

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Voter Registration at
Driver’s License Facilities**

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

The Department of State will incur one-time implementation costs of \$66,998 in order to comply with Act 636 of 2018. Implementation costs will include updates to the voter registration reports, programming changes to the interface between the department’s Election and Registration Information Network (ERIN) and the Office of Motor Vehicles, and editing and reprinting forms and promotional materials which include information regarding voting laws. This act allows a person to register to vote or for a person’s registration to be reinstated when the person provides documentation from the appropriate correction official showing that the person has not been incarcerated pursuant to an order of imprisonment for conviction of a felony within the last five years, and that the order does not pertain to election fraud or any other election offense.

- Additionally, the proposed rule aligns the department’s administrative code with current statutes and procedures regarding voter registration at driver’s license facilities.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
The proposed Rule change will not affect revenue collections of state or local governmental units.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)
The proposed Rule change will not result in any costs or benefits to directly affected persons or non- governmental entities.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
The proposed Rule change will not affect competition or employment.

R. Kyle Ardoin
Secretary of State
1902#023

Evan Brasseaux
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Wildlife and Fisheries
Wildlife and Fisheries Commission**

Dredging (LAC 76:XIII.101)

The Wildlife and Fisheries Commission does hereby give notice of its intent to amend the rules relative to dredging of fill sand and fill material from the water bottoms of the state of Louisiana and royalties.

Title 76

WILDLIFE AND FISHERIES

Part XIII. Fill Material

Chapter 1. Royalties

§101. License to Dredge; Classes of License; Royalties

- A. No person or firm shall dredge fill material, sand or gravel from water bottoms of this state without a license from the Department of Wildlife and Fisheries.
- B. The fee for such license shall be set at \$25 for a noncommercial license and \$50 for a commercial license. The license fee is nonrefundable.
- C. There shall be five classes of license as indicated in the schedule below. A severance royalty payment, based on cubic yards of material removed from water bottoms of this state, shall be paid to the state through the Department of Wildlife and Fisheries in the amounts indicated in the schedule below.

Class	Applicability	Royalty Payment	License Fee
A	applicable to commercial dredging or initial acquisition of fill sand or fill material with the specific intent to offer such fill for resale	\$0.29 / cubic yard	\$50
B	applicable to dredging of fill sand or fill material for commercial purposes other than the specific intent to offer such fill for resale. Such commercial purposes shall include operations related to mineral activities	\$0.25 / cubic yard	\$50
C	applicable to a person dredging or contracting for dredging of fill sand or fill material for private, noncommercial purposes	\$0.15 / cubic yard	\$25

Class	Applicability	Royalty Payment	License Fee
D	applicable to dredging of fill sand or fill material for an activity that has a public benefit, such as but not limited to a coastal conservation or restoration activity, navigation purpose, removal of sediment buildup, or recreational activity, except as provided in R.S. 56:2011.E.	\$0.05 / cubic yard	\$25
E	applicable to all other dredging of fill sand or fill material	\$0.25 / cubic yard	\$25

1. The license shall be valid for one year beginning January 1 and ending December 31 of that same calendar year. The license may be purchased at any time during the year for the current license year and beginning November 15 for the immediately following license year. No person with an outstanding violation of this Chapter may purchase a license. At all times, the original license shall be available at the dredge site for inspection by a duly authorized agent of the department.

2. Upon failure to pay royalty when due, a penalty of 1.5 percent per month calculated upon the royalty due, shall be levied and collected by the department in addition to the royalty due. This penalty shall become due without demand for payment by the department. This penalty is in addition to any other penalties or fines as provided by law.

3. Holder of a class A or B license that exceeds the licensed dredge volume may be levied a penalty of \$0.05 / cubic yard calculated on the volume that exceeds the licensed volume. This penalty shall become due without demand for payment by the department.

4. Any interest and/or penalty owed on unpaid royalty shall be established by the department in accordance with the Administrative Procedure Act, R.S. 49:950 et seq.

D. A license shall not be issued to an applicant who is, or who contracts for the removal of fill material with someone whose fill material license has been revoked or suspended for cause within the past 12 months, or who has an outstanding, unresolved royalty debt to the department, or who has repeatedly violated other provisions of previous permits or agreements may be deemed to not be in good standing with the department.

E. An application, including the applicant's name and contact information, dredge site information, estimated amount of material to be removed, detailed description of the proposed activity, and state and federal permit numbers, shall be submitted to the department.

F. A performance bond to run concurrently with the period of the license shall accompany the application. In lieu, the entire royalty fee owed to the state shall be remitted with the application.

1. The performance bond shall be in the amount equal to the known volume (historical capacity) of the existing pit(s) to be filled.

2. A certified copy of such bond must be submitted to the Department of Wildlife and Fisheries before commencement of any dredging operation.

G.1. The extent of a single permitted site shall not extend across the geometric center line of the stream.

2. The extent of a single permitted site in the Mississippi River, the Atchafalaya River, the Red River, the Pearl River (not including the West Pearl), the Calcasieu

River below the saltwater barrier, the Ouachita/Black River south of the confluence of Bayou Bartholomew shall not exceed 1 linear mile.

3. The extent of a single permitted site on all other streams except designated natural and scenic streams shall not exceed 1 linear half mile. Fill material, sand and gravel shall not be permitted to be removed from the water bottom of any designated natural and scenic river unless removal of such material is specifically allowed by statute.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:2011.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 19:1341 (October 1993), amended LR 45:

§103. Reporting Requirement

A. Holders of a class A, B, D or E licenses shall notify the department, in writing, their intent to begin dredging. Notification shall include anticipated beginning and ending dates of dredging activity.

B. Holders of a class A or B license shall file a monthly report, on forms obtained from the department.

1. The monthly report must include the total cubic yards of material dredged. The monthly report must be submitted to the department on or before the fifteenth of the following month.

2. In cases where there was no dredging during the month, a report shall be filed with the department indicating therein that no dredging occurred.

3. Failure to submit a monthly report or submitting a monthly report with false information will be cause for permit revocation or suspension.

4. Licensee will provide for each dredge project a pre- and post-dredging cross section survey of the receiving pit to be completed and certified by a registered professional engineer or a registered professional land surveyor for the purpose of determining the quantity of material removed from water bottoms of this state. Upon completion of a cross section survey by a qualified engineer, licensee shall have said engineer complete an affidavit giving pertinent details of the cross section survey. The department will furnish an affidavit form for this purpose. This affidavit will be used as an attachment in conjunction with all cross section surveys. Each dredging event that occurs during the life of a license will be certified in this manner by a qualified engineer. Pre- and post-dredging photographs of the pit shall be provided with the affidavit and cross section survey.

5. No fill material shall be removed from a pit prior to a post dredging survey being conducted.

6. Dredge volumes may be calculated by other methods as accepted and approved by the department on a case-by-case basis and prior to any dredging.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:2011.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 45:

§105. Audit and Inspection

A. The department reserves the right, and the said licensee so agrees, to permit the department's authorized representatives to examine any and all of the licensee's books, records and memoranda of whatever nature, pertaining to or having connection whatever with the removal or sale of said permitted material.

B. Department reserves the right to have the department's authorized agents or representatives inspect the dredges, barges, boats, scows or other related equipment of any kind by which the said permitted material is removed, and to keep a check on the number of holding pits at the project stockpile site, and also to determine by whatever means it may deem necessary, the number of cubic yards of permitted material which have been removed from the hereinabove described beds or water bottoms, and to require the payment thereof. Furthermore, the department reserves the right to inspect any contracts held by the licensee that related to the licensee's pit operation.

C. Licensee will acquire all other federal, state, local, and municipal permits and permissions required for the licensed activity prior to commencement of work.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:2011.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 45:

§107. Violations and penalties

A. Any person or firm found to be dredging without, or in violation of a validly issued license from this department shall be subject to criminal and civil penalties pursuant to R.S. 56:2012, et seq.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:2011.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 45:

The Secretary of the Department of Wildlife and Fisheries is authorized to take any and all necessary steps on behalf of the Commission to promulgate and effectuate this Notice of Intent and final Rule, including but not limited to, the filing of the Fiscal and Economic Impact statement, the filing of the Notice of Intent and final Rule and the preparation of reports and correspondence to other agencies of government.

Family Impact Statement

In accordance with Act 1183 of 1999 Regular Session of the Louisiana Legislature, the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission hereby issues its Family Impact Statement in connection with the preceding Notice of Intent. This Notice of Intent will have no impact on the six criteria set out at R.S. 49:972(B).

Poverty Impact Statement

The proposed rulemaking will have no impact on poverty as described in R.S. 49:973.

Provider Impact Statement

This Rule has no known impact on providers as described in HCR 170 of 2014.

Public Comments

Written comments should be addressed to Dave Butler, Permits Coordinator, Department of Wildlife and Fisheries, P.O. Box 98000, Baton Rouge, LA, 70898-9000 or via e-mail to dbutler@wlf.la.gov prior to 4:30 p.m., Thursday, April 4, 2019.

Robert J. Samanie, III
Chairman

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Dredging

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

The proposed rule change will have no expenditure impact on state or local governmental units.

The proposed rule change aligns regulations with statute and codifies current practice by identifying the licenses required to remove dredge fill material from water bottoms of this state. It describes the five classes of license based on the intended use or purpose of the dredge material and the associated fees. It identifies three classes of non-commercial licenses and two classes of commercial licenses.

The proposed rule change increases fees for the commercial licenses from \$25 to \$50, codifies the current \$25 fee for noncommercial licenses, and states that licenses shall be valid for one calendar year.

In order to align the department's administrative code with statute and current practices, the proposed rule change sets royalty payments per cubic yard appropriate for each class, replacing a royalty payment schedule based on the type of dredge material. It also requires the performance bond amount to be equal to the known volume (historical capacity) of the existing pit(s) to be filled which is current practice.

It establishes a penalty of \$0.05 per cubic yard for the volume of dredge material extracted in excess of the licensed volume for commercial license holders, and codifies a penalty of 1.5 percent per month on late royalty payments for all license holders.

The proposed rule will now require pre- and post-dredging photographs of the pit to be submitted by Class A and B license holders. It codifies reporting requirements for holders of certain classes of licenses, including the prior-notification of the intent to dredge and monthly reports on the quantity dredged.

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

There will be an increase in revenue collections to the Louisiana Department of Wildlife and Fisheries (LDWF) as a result of the proposed rule change, with the additional monies collected being deposited into the Conservation Fund.

The LDWF has issued an average of approximately 25 commercial dredge licenses over the past three years. Based on these numbers, the department anticipates collecting an additional \$625 annually as a result of the commercial license fee being increased to \$50 from \$25.

In 2017, eight businesses extracted 469,248.6 cubic yards of dredge material in excess of the amounts specified in their licenses. Based on the proposed rate of over-extraction, the \$0.05 per cubic yard penalty would be expected to generate \$23,462 in funds. However, LDWF only intends to assess this over-extraction penalty on those licensees that exceed their license dredge volumes by 20%.

Additional revenues may be accrued from the assessments of late penalties, however this increase is indeterminable.

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

Firms who hold commercial dredging licenses will have increased license payments of \$25 annually. Additionally, commercial dredging license holders that extract more material than the specified amount in the dredge license may be subject to a penalty of \$0.05 per cubic yard.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT
(Summary)

The proposed rule change is anticipated to have no significant effect on competition and employment.

Byran McClinton
Undersecretary
1902#021

Evan Brasseaux
Staff Director
Legislative Fiscal Office

Potpourri

POTPOURRI

Department of Health Licensed Professional Counselors Board of Examiners

Hearing Notice

The Licensed Professional Counselors (LPC) Board of Examiners will hold a hearing to receive public comment from any interested person regarding the rules of the agency at the Board office on March 15, 2019 at 3:30pm. All interested persons will be afforded an opportunity to submit data, views, or arguments either orally or in writing regarding LPC Board rules only. The agency will consider fully all written and oral comments. Comments must be received in writing in order to be submitted to the legislative oversight committees. The hearing site located at 8631 Summa Avenue, Baton Rouge, LA 70809 is accessible to people using wheelchairs or other mobility aids. If other reasonable accommodations are required in order to participate in the hearings, please contact the Rulemaking Coordinator at (225) 765-2515 at least five business days prior to the scheduled hearing. Written comments may be submitted to Jamie S. Doming, Executive Director, 8631 Summa Avenue, Baton Rouge, LA 70809. Comments must be postmarked no later than Friday, March 10, 2019.

Jamie Doming
Executive Director

1902#016

POTPOURRI

Department of Natural Resources

Hearing Notice

Under the authority of Act No. 454 of the 2018 Regular Session of the Louisiana Legislature, codified as La. R.S. 49:953(C)(2), and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Natural Resources, including the Office of Coastal Management, the Office of Mineral Resources, and

the Office of Conservation, collectively referred to as "DNR", gives notice that a public hearing will be held in the LaBelle Hearing Room, first floor of the LaSalle Office Building, 617 North Third Street, Baton Rouge, Louisiana, at 10:00 a.m. on June 20, 2019, for the purpose of receiving comments from all interested persons regarding any Rule of DNR and its agencies which the person believes is contrary to law, outdated, unnecessary, overly complex, or burdensome. Interested persons are invited to attend the hearing and submit oral comments or submit their written comments at the hearing.

Additionally, all interested persons are invited to submit written comments via the U.S. Mail to James Devitt, Deputy General Counsel, Department of Natural Resources, P.O. Box 94396, Baton Rouge, LA 70804. Written comments may also be hand delivered to James Devitt, Deputy General Counsel, Twelfth Floor, LaSalle Building, 617 North Third Street, Baton Rouge, LA 70802 and must be date stamped by DNR on the date received. All written public comments must be dated and include the original signature of the person submitting the comments and must be received in an envelope labeled "ACT 454 Comments" no later than 12:00 p.m. on June 27, 2019. DNR will only consider and review those written comments received at the public hearing or those written comments transmitted and timely received via U.S. Mail or hand delivery during the public comment period. DNR will consider all relevant oral comments received at the public hearing. In order for oral comments to be submitted to the legislative oversight committees, the comments must be submitted to DNR in writing.

Any individual who needs special assistance in order to attend or speak at this public hearing should notify Jennifer Boyt, within ten working days prior to the Hearing Date, in writing at "The Office of Conservation, Attn. Jennifer Boyt, P.O. Box 94275, Baton Rouge, LA 70804-9275," by email at Jennifer.Boyt@la.gov or by telephone at (225) 342-5500. Any questions should be directed to James Devitt at 225-342-2614.

Thomas Harris
Secretary

1902#032

CUMULATIVE INDEX
(Volume 45, Number 2)

Pages	2019	Issue
1-191.....		January
192-342.....		February
EO—Executive Order PPM—Policy and Procedure Memoranda ER—Emergency Rule R—Rule N—Notice of Intent CR—Committee Report GR—Governor's Report L—Legislation P—Potpourri QU—Administrative Code Quarterly Update		

ADMINISTRATIVE CODE UPDATE

Cumulative

January 2018-December 2018, 184QU

AGRICULTURE AND FORESTRY

Agricultural and Environmental Sciences, Office of

Commercial applicators certification, 193R

Proficiency testing, 195R

Quarantine

Citrus greening, 193R

Emerald ash borer, 3ER

Guava root knot, 194R

Structural Pest Control Commission

Approved termiticides and manufacturers, 187P

Animal Health and Food Safety, Office of

Turtles, 31R

Commissioner, Office of

Medical marijuana program, 4ER, 196R

CHILDREN AND FAMILY SERVICES

Child Welfare, Division of

Administrative appeal, 217R

Central registry, 217R

Criminal background checks, 217R

Foster care, 7ER

Extended services, 82N

State central registry checks, 217R

State repository, 217R

Child Support and Enforcement Section

Criminal History Records Checks, 284N

Economic Stability Section

Temporary assistance for needy families (TANF)

Caseload reduction, 188P

Licensing Section

State central registry

Child placing agencies, 197R

Child residential care, class B, 10ER, 83N

Juvenile detention facilities, 285N

Maternity homes, 16ER, 89N

Residential homes, 16ER

Juvenile detention facilities, 202R

ECONOMIC DEVELOPMENT

Secretary, Office of the

Research and development tax credit program, 218R

EDUCATION

Elementary and Secondary Education, Board of

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

English language proficiency, 221R

Measure of progress, 221R

Bulletin 119—Louisiana School Transportation Specifications and Procedures

Bus drivers, termination, vacancies, 35R

Bulletin 129—The Recovery School District

Budget reporting, 223R

Bulletin 135—Health and Safety

Immunizations, 35R

Bulletin 137—Louisiana Early Learning Center Licensing Regulations

Child-to-staff ratios, type I centers, minimum, 100N

Fraud and felony limitations, 224R

Licensure, 100N

Owners, directors and director designees of type III early learning centers, 224R

Bulletin 741—Louisiana Handbook for School Administrators

Curriculum and instruction, 36R

Home study programs, 225R

Operation and administration, 36R

STEM diploma endorsements, 227R

Bulletin 741 (Nonpublic)—Louisiana Handbook for Nonpublic School Administrators

High school graduation requirements, 37R

Preventive programs, 37R

Bulletin 746—Louisiana Standards for State Certification of School Personnel

Authorizations, teaching, 102N

Certification, 102N, 227R

Endorsements, 227R

Mathematics, 227R

PRAXIS scores, 227R

Bulletin 1530—Louisiana's IEP Handbook for Students with Exceptionalities

Assessments, statewide, 105N

Content leader credentials, 228R

Mentor teacher, 228R

Teaching authorizations, 38R, 234R

ENVIRONMENTAL QUALITY

Secretary, Office of the

Legal Affairs and Criminal Investigation Division

Recycling Tax Credit Reduction
Risk evaluation/corrective action program (RECAP),
revisions, 106N
Surface impoundments, closure requirements, 234R
UST new and used motor oil storage fee
correction, 108N
Waste Tire Fees, 287N
Water quality trading, 109N
Water transfer, 114N

EXECUTIVE ORDERS

JBE 18-25 Flags at Half-Staff—Rick Farrar, 1EO
JBE 18-26 Flags at Half-Staff—Honorable Pascal F.
Calogero, Jr., 1EO
JBE 19-1 Carry-Forward Bond Allocation 2018, 192EO

GOVERNOR

Administration, Division of

Racing Commission

Permitted medications in quarter horses, 247R
Preference for eliminated horses, 247R

Boxing and Wrestling Commission

Professional wrestling, 119N
Standards, boxing and wrestling, 27ER, 236R

Cosmetology, Board of

Cosmetology, 115N

Financial Institutions, Office of

Interested party petitions, 247R

Law Enforcement and Administration of Criminal Justice, Commission on

General subgrant guidelines, 123N

New Orleans and Baton Rouge Steamship Pilots, Board of Examiners

Standards of Conduct, 208R

Professional Geoscientists, Board of

Seals, 289N

HEALTH

Behavioral Health, Office of

Behavioral health services, 270R
Healthy Louisiana opioid use disorder, 271R
Substance use disorders services, 270R
Substance use disorder waiver, 271R

Citizens with Developmental Disabilities, Office for

Home and community-based services waivers
New opportunities waiver, complex care
services, 42R

Health Services Financing, Bureau of

Behavioral health services, 270R
Crisis receiving centers, licensing standards, 125N

Direct service worker registry, 291N

Intermediate care facilities for individuals with
intellectual disabilities

Public facilities, transitional rate extension, 28ER,
273R

Healthy Louisiana opioid use disorder/substance, 271R

Home and community-based services waivers

New opportunities waiver, complex care services,
42R

Managed care organization

Payment accountability, 273R

Provider credentialing, 273R

Medicaid eligibility

Children's health insurance program reauthorization
act, option for lawfully resident children, 44R

Nurse licensure compact, 45R

Nursing facilities

Case-mix documentation reviews, 274R

Index reports, 274R

Reimbursement methodology, 274R, 275R

Transition of private facilities to state-owned or
operated facilities through change of ownership,
275R

Pharmacy benefits management program

Federal upper payment limits, 295N

Pharmacy ingredient cost reimbursement, 129N

Physician-administered drugs reimbursement, 295N

Substance use disorders services, 270R

Substance use disorder waiver, 271R

Support coordination providers

Licensing standards, 298N

Licensed Professional Counselors Board of Examiners

Criminal history records, 275R

Hearing notice, 339P

Licensure requirements, provisional licensed
professional counselor, 276R

Licensed Professional Vocational Rehabilitation Counselors Board of Examiners

Professional ethics, 315N

Nursing, Board of

Disciplinary proceedings, 248R

Licensure, reinstatement, 41R

Pharmacy, Board of

Drugs of concern

Naloxone, 42R

Public Health, Office of

Anti-rabies vaccination requirements for dogs and cats,
318N

Disease reporting requirements, 318N

Immunization requirements, 318n

Secretary, Office of the

Public hearing, 188P

Speech-Language Pathology and Audiology, Board of

Speech-pathology and audiology, 249R

Veterinary Medicine, Board of

Board nominations, 204P

INSURANCE

Commissioner, Office of the

- Medicare supplemental insurance, minimum standards, 46R
- Regulation 46, policy definitions, long-term care insurance, 279R
- Regulation 89—suitability in annuity transactions, 324N
- Regulation 100, coverage of prescription drugs through a drug formulary, N
- Rule 12, transmission of forms and documents, 63R
- Rule 13, special assessment to pay the cost of investigation, enforcement, and prosecution of insurance fraud, 63R

NATURAL RESOURCES

Hearing notice, 339N

Conservation, Office of

- Commercial facilities, hours of operation, 65R
- Orphaned oilfield sites, 189P
- Pipeline safety, 66R
- Wells, alternate source, 134N

PUBLIC SAFETY AND CORRECTIONS

Correction Services

- Administrative remedy procedure, 209R, 328N
- Lost property claims, 328N
- Offender incentive pay, 69R
- Special agents, 138N
- Wage compensation, other, 69R

Gaming Control Board

- Computer system requirement, 140N
- Gaming operations relocation, 329N
- Non-gaming supplies, 330N
- State tax clearance, 141N

Motor Vehicles, Office of

- Hang tags for mobility impaired individuals, 279R

State Police, Office of

- Accident reports, 142N
- Concealed handgun permits, insurance, 144N
- Explosives code, 281R
- First Responders—best practices for administration of naloxone, other opioid antagonist, 72R
- Photographs, 146N

REVENUE

Alcohol and Tobacco Control, Office of

- Digitized identification, acceptance and education, 74R
- Governmental entity special events, 75R

STATE

Elections Division

- Voter registration at driver's license facilities, 332N

TRANSPORTATION AND DEVELOPMENT Professional Engineering and Land Surveying Board

- Engineering, 75R
- Land surveying, 75r

WORKFORCE COMMISSION

Office of Unemployment Insurance Administration

- Excepted federal employees performing services during government shutdown, 216R

WILDLIFE AND FISHERIES

Fisheries, Office of

- Crab traps, abandoned, removal, 78R, 281R

Wildlife and Fisheries Commission

- Blue crabs
 - Harvest regulations, 79R
- Crab traps, abandoned, removal, 78R, 284R
- Dredging, 335N
- Houseboats, registration and numbering, 80R
- Hunting
 - Regulations and seasons, 2019-2020, 147N
- Oysters
 - Public oyster seed grounds
 - Mississippi River, east of, 181N, 215R
- Season
 - Closure, Calcasieu Lake, east portion, 29ER
 - Reopening, Calcasieu Lake, east portion, 214R
- Shrimp
 - Season
 - Closure
 - Fall inshore, partial 29ER
 - Portions of state outside waters, 30ER, 215R