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Executive Orders

EXECUTIVE ORDER JBE 16-52

Declaration of Public Health Emergency and to Temporarily Suspend Licensure Requirements for Emergency Medical Technicians

WHEREAS, pursuant to the Louisiana Homeland Security and Emergency Assistance and Disaster Act, R.S. 29:721, et seq., the Governor declared a state of emergency in Proclamation No. 111 JBE 2016;

WHEREAS, due to near unprecedented rainfall, portions of southeastern Louisiana are currently experiencing a flood of historical proportions, with thousands of homes flooded and thousands of peoples being rescued from flooded homes that can only be reached by boat or high water trucks;

WHEREAS, many of the rescued persons, together with others able to evacuate on their own, are utilizing emergency shelters to accommodate those who cannot remain in their homes;

WHEREAS, flooding is currently straining medical infrastructure in Regions 2, 4, and 9 with potential threat of storms likely straining infrastructure in Region 5;

WHEREAS, the flooding poses a threat to citizens and communities across southeastern Louisiana and creates conditions which place lives and property in a state in jeopardy;

WHEREAS, there is a need to immediately supplement the number of licensed Emergency Medical Technicians, including the designations of Emergency Medical Technician (EMT), Advanced EMT, Paramedic, EMT-Basic (EMT-B), EMT-Intermediate (EMT-I), and EMT-Paramedic (EMT-P), currently available to this state to respond to this emergency in order to serve those which might be affected by this emergency;

WHEREAS, Emergency Medical Technicians, including the designations of Emergency Medical Technician (EMT), Advanced EMT, Paramedic, EMT-Basic (EMT-B), EMT-Intermediate (EMT-I), and EMT-Paramedic (EMT-P), licensed in states other than Louisiana are available to provide medical aid and assistance to those persons affected by this emergency.

WHEREAS, Louisiana Revised Statute 29:724 authorizes the Governor, during a declared state of emergency, to suspend the provisions of any state regulatory statute prescribing procedures for conducting state business, or the orders, rules or regulations of any state agency, if strict compliance with the provision of any statute, order, rule, or regulation would in any way prevent, hinder, or delay necessary action in coping with the emergency;

WHEREAS, the Secretary of the Department of Health and the State Health Officer have requested that Louisiana state statutes, laws, rules, and regulations related to licensing of Emergency Medical Technicians, including designations of Emergency Medical Technician (EMT), Advanced EMT, Paramedic, EMT-Basic (EMT-B), EMT-Intermediate (EMT-I), and EMT-Paramedic (EMT-P), be temporarily suspended for those such persons duly licensed

to practice in other states who wish to provide their services in Louisiana to those persons needing medical services as a result of this emergency;

WHEREAS, Louisiana Revised Statute 29:766 authorizes the Governor to declare a state of public health emergency if he finds a public health emergency as defined in La. R.S. 29:762 has occurred or the threat thereof is imminent; and

WHEREAS, Louisiana Revised Statute 29:766 authorizes the Governor, during a declared state of public health emergency, to suspend the provisions of any regulatory statute prescribing procedures for the conducting of state business, or the orders, rules, or regulations of any state agency, if strict compliance with the provisions of any statute, order, rule, or regulation would in any way prevent, hinder, or delay necessary action in coping with the emergency.

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 the Louisiana Health Emergency Powers Act, La. R.S. 29:760 et seq., and more specifically, La. R.S. 29:766, a state of public health emergency is hereby declared.

SECTION 2: Louisiana state statutes, laws, rules, and regulations regarding the licensure of Emergency Medical Technicians, including designations of Emergency Medical Technician (EMT), Advanced EMT, Paramedic, EMT-Basic (EMT-B), EMT-Intermediate (EMT-I), and EMT-Paramedic (EMT-P), are hereby temporarily suspended for Emergency Medical Technicians duly licensed to practice in other states who wish to provide their services to those persons needing services as a result of this declared emergency. An individual currently licensed and in good standing as an Emergency Medical Technician, including designations of Emergency Medical Technician (EMT), Advanced EMT, Paramedic, EMT-Basic (EMT-B), EMT-Intermediate (EMT-I), and EMT-Paramedic (EMT-P), in another state may practice in Louisiana, subject to the following conditions, qualifications, and parameters:

A. The individual must be duly licensed and in good standing in another state.

B. The individual shall not exceed the scope of practice applicable to his license, as provided for by applicable law of the state in which he is licensed; the individual must practice in good faith and within the reasonable scope of his/her skills, training, ability, and competency.

C. The individual must cease practicing in Louisiana upon the termination or rescission of this Order or of the declared state of emergency cited herein, or any extension thereof.

SECTION 3: This Order is effective upon signature and shall apply retroactively from August 13, 2016, 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 Louisiana, at the Capitol, in the City of Baton Rouge, on this 14th day of August, 2016.

John Bel Edwards
Governor

ATTEST BY
THE GOVERNOR
Tom Schedler
Secretary of State
1609#004

EXECUTIVE ORDER JBE 16-53

**Emergency Suspension of Deadlines in Legal,
Administrative and Regulatory Proceedings**

WHEREAS, pursuant to the Louisiana Homeland Security and Emergency Assistance and Disaster Act, La. R.S. 29:721, et seq., the Governor declared a state of emergency in Proclamation No. 111 JBE 2016, which is currently in effect;

WHEREAS, as a direct consequence of the disaster, evacuation, flooding and power outages, there are extreme challenges to communication networks that have created an obstruction to citizens attempting to timely exercise their rights to effectively pursue or defend claims in legal, administrative and regulatory proceedings;

WHEREAS, Article I, Section 22 of the Louisiana Constitution provides that all courts shall be open, and every person shall have an adequate remedy by due process of law and justice, administered without denial, partiality, or unreasonable delay, for injury to him in his person, property, reputation, or other rights;

WHEREAS, the destruction and disruption of services and infrastructure to our system of justice caused by this emergency event will have a significant impact on the basic rights of citizens unless action is taken to suspend the effects of the tolling of legal delays during the period of this emergency;

WHEREAS, the Louisiana State Bar Association, the Louisiana Association of Defense Counsel, and the Louisiana Association of Justice jointly requested the Governor to suspend all deadlines applicable to legal proceedings, including prescription and preemption, in all Louisiana state courts, administrative agencies and boards; and

WHEREAS, Louisiana Revised Statute 29:724 confers upon the Governor emergency powers to deal with emergencies and disasters and to ensure that preparations of this state will be adequate to deal with such emergencies or disasters, and to preserve the lives and property of the citizens of the State of Louisiana, including the authority to suspend the provisions of any regulatory statute prescribing the procedures for conduct of state business, or the orders, rules, or regulations of any state agency, if strict compliance with the provisions of any statute, order, rule, or regulation would in any way prevent, hinder, or delay necessary action in coping with the emergency.

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: Legal deadlines, including liberative prescription and preemptive periods applicable to legal proceedings in all courts, administrative agencies, and boards, are hereby suspended until at least Friday, September 9, 2016, including, but not limited to, any such deadlines set forth by law within the following:

- A. Louisiana Civil Code;
- B. Louisiana Code of Civil Procedure;
- C. Title 9 of Louisiana Revised Statutes, Civil Code Ancillaries;
- D. Title 13 of Louisiana Revised Statutes, Courts and Judicial Procedure;
- E. Chapter 11 of Title 18 of Louisiana Revised Statutes, Election Campaign Financing;
- F. Chapter 10 of Title 23 of Louisiana Revised Statutes, Worker’s Compensation;
- G. Chapter 5, Part XXI-A, of Title 40 of Louisiana Revised Statutes, Malpractice Liability for State Services;
- H. Chapter 5, Part XXIII, of Title 40 of Louisiana Revised Statutes, Medical Malpractice; and
- I. Title 49, Chapter 13, Administrative Procedure.

SECTION 2: This order is effective upon signature and shall apply retroactively from Friday, August 12, 2016, through Friday, September 9, unless amended, modified, terminated, or rescinded by the Governor, or terminated by operation of law prior to such time.

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of Louisiana in the City of Baton Rouge, on this 15th day of August, 2016.

John Bel Edwards
Governor

ATTEST BY
THE GOVERNOR
Tom Schedler
Secretary of State
1609#005

EXECUTIVE ORDER JBE 16-54

**Use of State Vehicles to Transport
Non-State Employees during an Emergency**

WHEREAS, pursuant to the Louisiana Homeland Security and Emergency Assistance and Disaster Act, La. R.S. 29:721, et seq., the Governor declared a state of emergency in Proclamation No. 111 JBE 2016, which is currently in effect;

WHEREAS, portions of southern Louisiana are currently experiencing flooding and rescue efforts have been ongoing since the event began and continue, including state employees who have volunteered to assist and drive state owned vehicles;

WHEREAS, Louisiana Revised Statute 29:724 confers upon the Governor emergency powers to deal with emergencies and disasters in order to ensure that preparations of this state will be adequate to deal with such emergencies or disasters, and to preserve the lives and property of the citizens of the State of Louisiana, including

the authority to suspend the provisions of any regulatory statute prescribing the procedures for the conduct of state business, or the orders, rules, or regulations of any state agency, if strict compliance with the provisions of any statute, order, rule, or regulation would in any way prevent, hinder, or delay necessary action in coping with the emergency.

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: For the purpose of (1) evacuations; (2) shelter operations; and (3) obtaining medication, food, water, personal supplies, medical care and other critical supplies or services; or (4) take other similar necessary action in coping with the emergency, strict compliance with Louisiana Administrative Code Title 34, Part XI, Section 103, and any other rule, regulation, policy or practice of any agency which limits travel in state-owned vehicles to state employees unless specific permission is given and procedures are followed, shall not be required during the existence of this declared state of emergency declared by Proclamation No. 111 JBE 2016.

SECTION 2: Non-state employees may travel as passengers in state-owned vehicles only during the existence of this declared state of emergency for the specific purposes outlined above. All other travel by non-state employees in state-owned vehicles shall be in compliance with Louisiana Administrative Code Title 34, Part XI, Section 103, and any other rule, regulation, policy or practice of any agency.

SECTION 3: This order is effective upon signature and shall apply retroactively from Friday, August 12, 2016, and continue through the duration of the emergency unless 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 Louisiana in the City of Baton Rouge, on this 15th day of August, 2016.

John Bel Edwards
Governor

ATTEST BY
THE GOVERNOR
Tom Schedler
Secretary of State
1609#006

EXECUTIVE ORDER JBE 16-55

Emergency Procedures for Conducting State Business

WHEREAS, pursuant to the Louisiana Homeland Security and Emergency Assistance and Disaster Act, La. R.S. 29:721, et seq., the Governor declared a state of emergency in Proclamation No. 111 JBE 2016;

WHEREAS, due to near unprecedented rainfall, portions of southeastern Louisiana are currently experiencing a flood of historical proportions, with thousands of homes flooded and thousands of peoples being rescued from flooded homes that can only be reached by boat or high water trucks;

WHEREAS, the flooding poses a threat to citizens and communities across southeastern Louisiana and has created conditions which place lives and property in a state in jeopardy; and

WHEREAS, Louisiana Revised Statute 29:724 confers upon the Governor emergency powers to deal with emergencies and disasters in order to ensure that preparations of this State will be adequate to deal with such emergencies or disasters, and to preserve the lives and property of the citizens of the State of Louisiana, including the authority to suspend the provisions of any regulatory statute prescribing the procedures for the conduct of state business, or the orders, rules, or regulations of any state agency, if strict compliance with the provisions of any statute, order, rule, or regulation would in any way prevent, hinder, or delay necessary action in coping with the emergency.

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: For procurement and contracting, strict compliance with La. R.S. 39:1551 *et seq.* and La. R.S. 39:1751-1755, shall not be required. However, all state agencies should comply with the following conditions:

A. An appointed official within the agency, or the equivalent for elected officials in higher education, must determine that the failure to strictly comply with the statutory restriction is necessary due to the emergency;

B. A centralized point of contact for each agency must monitor all transactions conducted without strict statutory compliance, maintaining copies of all documentation. Documentation should specify whether the purchase falls into the "emergency" or "permanent" category and whether the purchase relates to the flood event referenced in 111 JBE 2016 and all documentation must be maintained and available for audit and FEMA reimbursement purposes;

C. Written competitive quotes and/or offers must be obtained whenever possible and agencies must take the necessary steps to assess that fair and equitable pricing is being offered;

D. Performance-based contracting should be used where practical;

E. Statewide contracts should be used where practical;

F. To the maximum extent possible, such emergency contracts should be only for the duration of the emergency or to allow the agency time to comply with normal competitive bidding requirements if the goods or services will be required for an extended period of time;

G. Copies of contracts which would otherwise require approval by the Office of State Procurement and the supporting documentation discussed above must be provided to these agencies within 30 days or sooner, if practical. Additionally, Lagov agencies should enter small purchases into the Lagov system as soon as practical. The Office of State Procurement shall review the contracts and documentation to determine compliance with this Executive Order; and

H. Payments to contractors should be made only after verification that all goods and services meet contract requirements.

SECTION 2: The inspector general is directed and authorized to monitor those transactions conducted outside the scope of regulatory statutes, orders, rules and regulations to insure that those transactions are directly related to the emergency situation and are prudently handled and, if any inappropriate transactions are noted, those situations shall be reported directly to the Governor.

SECTION 3: All cabinet members, statewide elected officials and department heads are authorized to transfer the directions, job assignments, personnel, and functions of their departments for the purpose of performing or facilitating emergency services as necessary.

SECTION 4: All available resources of state government should be utilized as reasonably necessary to cope with this emergency.

SECTION 5: This Order is effective upon signature and shall be retroactive to August 12, 2016, 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 Louisiana in the City of Baton Rouge, on this 16th day of August, 2016.

John Bel Edwards
Governor

ATTEST BY
THE GOVERNOR
Tom Schedler
Secretary of State
1609#007

EXECUTIVE ORDER JBE 16-56

State of Emergency—East Baton Rouge Parish

WHEREAS, pursuant to the Louisiana Homeland Security and Emergency Assistance and Disaster Act, La. R.S. 29:721, et seq., the Governor declared a state of emergency in Proclamation No. 111 JBE 2016, which is currently in effect;

WHEREAS, this disaster has resulted in flooding, power outages and road closures throughout southern Louisiana; and

WHEREAS, many citizens have been forced to evacuate, efforts to provide assistance are continuous, and the Sheriff of East Baton Rouge Parish has indicated that public safety is imperiled by the disaster.

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: A state of emergency exists in East Baton Rouge Parish and the Sheriff of East Baton Rouge Parish is authorized during the State of Emergency declared in Proclamation No. 111 JBE 2016 to take certain actions, as described in La. R.S. 14:329.6, such as establishing a curfew, in order to protect life and property and to bring the emergency situation under control.

SECTION 2: This order is effective upon signature, unless amended, modified, terminated, or rescinded by the Governor, or terminated by operation of law prior to such time.

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of Louisiana in the City of Baton Rouge, on this 16th day of August, 2016.

John Bel Edwards
Governor

ATTEST BY
THE GOVERNOR
Tom Schedler
Secretary of State
1609#008

EXECUTIVE ORDER JBE 16-57

Emergency Suspension of Deadlines in Legal, Administrative and Regulatory Proceedings Amending Executive Order Number JBE 2016-53

WHEREAS, pursuant to the Louisiana Homeland Security and Emergency Assistance and Disaster Act, La. R.S. 29:721, et seq., the Governor declared a state of emergency in Proclamation No. 111 JBE 2016, which is currently in effect;

WHEREAS, Article I, Section 22 of the Louisiana Constitution provides that all courts shall be open, and every person shall have an adequate remedy by due process of law and justice, administered without denial, partiality, or unreasonable delay, for injury to him in his person, property, reputation, or other rights;

WHEREAS, the Governor issued Executive Order Number JBE 2016-53 on August 15, 2016, suspending deadlines in legal, administrative and regulatory proceedings; and

WHEREAS, it is necessary to amend Executive Order Number JBE 2016-53.

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: Section 1 of Executive Order Number JBE 2016-53, issued on August 15, 2016, is hereby amended as follows:

A. Liberative prescription and peremptive periods continue to be suspended throughout the State until Friday, September 9, 2016.

B. Deadlines in legal proceedings in courts, administrative agencies and boards affected by the flooding event, defined as the following parishes: Acadia, Ascension, Assumption, Avoyelles, Cameron, East Baton Rouge, East Feliciana, Evangeline, Iberia, Iberville, Jefferson Davis, Lafayette, Livingston, Pointe Coupee, St. Charles, St. Helena, St. James, St. John the Baptist, St. Landry, St. Martin, St. Tammany, Tangipahoa, Vermilion, Washington, West Baton Rouge and West Feliciana, continue to be suspended until Friday, September 9, 2016, including but not limited to, non-constitutionally mandated deadlines in criminal proceedings and any such deadlines as follows:

EXECUTIVE ORDER JBE 16-58

**Emergency Suspension of Certain
Insurance Code Provisions**

- i. Louisiana Civil Code;
- ii. Louisiana Code of Civil Procedure;
- iii. Title 9 of Louisiana Revised Statutes, Civil Code Ancillaries;
- iv. Title 13 of Louisiana Revised Statutes, Courts and Judicial Procedure;
- v. Chapter 11 of Title 18 of Louisiana Revised Statutes, Election Campaign Financing;
- vi. Chapter 10 of Title 23 of Louisiana Revised Statutes, Worker’s Compensation;
- vii. Chapter 5, Part XXI-A, of Title 40 of Louisiana Revised Statutes, Malpractice Liability for State Services;
- viii. Chapter 5, Part XXIII, of Title 40 of Louisiana Revised Statutes, Medical Malpractice;
- ix. Chapter 15 of Title 42 of Louisiana Revised Statutes;
- x. Title 47 of Louisiana Revised Statutes, Revenue and Taxation; and
- xi. Title 49, Chapter 13, Administrative Procedure.

C. Except for the suspension of prescription and peremption in Subsection A or in the parishes listed in subsection B of this Section, the suspension of all other deadlines in legal proceedings provided for in Executive Order Number JBE 2016-53 in all courts, administrative agencies, and boards shall end Friday, August 19, 2016. In the interim period, courts, administrative agencies and boards shall make reasonable attempts to contact parties with pending matters to determine appropriate action for rescheduling. If a party to a pending matter can show that there is an inability to meet the deadlines caused by the events occurring in the parishes identified in Subsection B, then the court, administrative agency or board shall suspend deadlines specific to that matter until Friday, September 9, 2016.

D. Courts, administrative agencies and boards within the areas listed in Subsection B of this Section shall use due diligence in communicating with attorneys, parties to proceedings with pending deadlines, and the public how the court, agency or board will implement and interpret the provisions of this Order.

E. Paragraph B of this Section shall not be interpreted so as to prohibit an owner of immovable property from reclaiming leased property if abandoned as provided by law, or entering leased property to make necessary repairs as provided by law.

SECTION 2: This order is effective upon signature and shall be effective upon signature until Friday, September 9, 2016, unless amended, modified, terminated, or rescinded by the Governor, or terminated by operation of law prior to such time.

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of Louisiana in the City of Baton Rouge, on this 17th day of August, 2016.

John Bel Edwards
Governor

ATTEST BY
THE GOVERNOR
Tom Schedler
Secretary of State
1609#009

WHEREAS, pursuant to the Louisiana Homeland Security and Emergency Assistance and Disaster Act, La. R.S. 29:721, et seq., the Governor declared a state of emergency in Proclamation No. 111 JBE 2016;

WHEREAS, due to unprecedented rainfall, portions of southern Louisiana are currently experiencing a flood of historical proportions, with thousands of homes flooded and thousands of peoples being rescued from flooded homes that can only be reached by boat or high water trucks;

WHEREAS, the flooding poses a threat to citizens, businesses, and communities across Southern Louisiana and has created conditions which place lives, livelihoods, and property in a state of jeopardy;

WHEREAS, the enormity of the current and impending crisis has forced thousands of people to evacuate their homes and in many cases will cause a significant interruption of residency in their homes and occupancy of businesses;

WHEREAS, due to the mass disruptions caused and still occurring, Louisiana citizens and businesses may be unable to timely pay their insurance premiums, access their insurance policies, satisfy certain conditions of insurance contracts, and communicate with insurance agents and their respective insurance companies for insurance-related matters, all of which can result in the risk of insurance cancellation and claims denials under ordinary circumstances and will prevent, hinder, and delay necessary action in coping with and recovering from this emergency;

WHEREAS, Louisiana Revised Statute 29:724 confers upon the Governor emergency powers to deal with emergencies and disasters and to ensure that preparations of this state will be adequate to deal with such emergencies or disasters, and to preserve the lives and property of the citizens of the State of Louisiana, including the authority to suspend the provisions of any regulatory statute prescribing the procedures for conduct of state business, or the orders, rules, or regulations of any state agency, if strict compliance with the provisions of any statute, order, rule, or regulation would in any way prevent, hinder, or delay necessary action in coping with the emergency; and

WHEREAS, Commissioner of Insurance James J. Donelon has advised the Governor that citizens in Louisiana are at risk with regard to any and all kinds of insurance and requested limited transfer of authority to suspend certain provisions of Title 22.

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: Commissioner of Insurance James J. Donelon shall have limited transfer of authority from the Governor to suspend provisions of any regulatory statute of Title 22 of the Louisiana Revised Statutes of 1950 concerning the cancellation, termination, nonrenewal, and nonreinstatement provisions of Title 22, including, but not limited to, La. R.S. 22:272, 22:887, 22:1068, 22:977, 22:978, 22:1074, 22:1266, 22:1267, 22:1311, and 22:1335,

where such statutory or regulatory requirements prevent, hinder, or delay necessary action in coping with the current emergency, including providing additional time for policyholders to complete existing claims, providing additional time for policyholders to remit premium payments to avoid cancellation of policies, prohibiting cancellations where a policyholder is incapable of fulfilling requirements due to evacuation or inhabitability, and suspending any licensure or similar requirement that might hinder the ability of regulated entities to employ non-Louisiana licensees during the immediate aftermath of the disaster, including claims adjusters or other licensed regulated entities.

SECTION 2: This Order shall not relieve an insured who has a claim caused by this historic flooding, or its aftermath, from compliance with the insured's obligation to provide information and cooperate in the claim adjustment process relative to such claim, or to pay insurance premiums upon termination of the provisions of this Order.

SECTION 3: This Order shall apply retroactively from Friday, August 12, 2016, and shall continue through Monday, September 12, 2016, unless amended, modified, terminated, or rescinded by the Governor prior thereto.

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of Louisiana in the City of Baton Rouge, on this 17th day of August, 2016.

John Bel Edwards
Governor

ATTEST BY
THE GOVERNOR
Tom Schedler
Secretary of State
1609#010

EXECUTIVE ORDER JBE 16-59

Emergency Suspension of Licensure Requirements for Medical Professionals and Personnel Licensed Out-of-State

WHEREAS, pursuant to the Louisiana Homeland Security and Emergency Assistance and Disaster Act, La. R.S. 29:721, et seq., the Governor declared a state of emergency in Proclamation No. 111 JBE 2016;

WHEREAS, pursuant to the Louisiana Health Emergency Powers Act, La. R.S. 29:760 et seq., a state of public health emergency was declared to exist in the entire State of Louisiana by Executive Order Number JBE 2016-52;

WHEREAS, due to the unprecedented rainfall, portions of southern Louisiana are currently experiencing a flood of historical proportions, with thousands of homes flooded and thousands of people being rescued from flooded homes;

WHEREAS, many of the rescued persons, together with others able to evacuate on their own, are utilizing emergency shelters, including medical special needs shelters, set-up in the area to accommodate those who cannot remain in their homes;

WHEREAS, flooding is currently straining medical infrastructure in LDH Regions 2, 4, and 9, with the potential threat of further storms likely straining medical infrastructure in Region 5;

WHEREAS, the flooding poses a threat to citizens and communities across southern Louisiana and creates conditions which place lives and property in a state in jeopardy;

WHEREAS, although scores of people have been rescued, there are many more persons waiting for rescue, evacuation, and medical assistance, and many citizens have suffered or will suffer injury and/or illness;

WHEREAS, the number of medical professionals and personnel currently available to the state to respond to this emergency are insufficient and there is a need to immediately supplement their number in order to serve those affected by this disaster;

WHEREAS, Louisiana Revised Statute 29:724 authorizes the Governor, during a declared state of emergency, to suspend the provisions of any state regulatory statute prescribing procedures for conducting state business, or the orders, rules or regulations of any state agency, if strict compliance with the provision of any statute, order, rule, or regulation would in any way prevent, hinder, or delay necessary action in coping with the emergency;

WHEREAS, Louisiana Revised Statute 29:766 authorizes the Governor, during a declared state of public health emergency, to suspend the provisions of any regulatory statute prescribing procedures for the conducting of state business, or the orders, rules, or regulations of any state agency, if strict compliance with the provisions of any statute, order, rule, or regulation would in any way prevent, hinder, or delay necessary action in coping with the emergency; and

WHEREAS, the secretary of the Department of Health and the State Health Officer have requested that the Louisiana state statutes, laws, rules, and regulations related to the licensing of medical professionals and personnel be temporarily suspended for those such persons duly licensed to practice in other states who wish to provide their services in Louisiana to those persons needing medical services as a result of this emergency.

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: Louisiana state licensure laws, rules, and regulations for medical professionals and personnel are hereby suspended for those medical professionals and personnel from other states or other countries offering medical services in Louisiana to those needing medical services as a result of this disaster provided that said out-of-state or out-of-country medical professionals and personnel possess a current medical license in good standing in their respective state or country of licensure and that they practice in good faith and within the reasonable scope of his or her skills, training, or ability.

SECTION 2: All out-of-state or out-of-country medical professionals and personnel offering services in the state of Louisiana by authority of this Order shall submit to the State Health Officer, or his designee at the Office of Public Health within the Louisiana Department of Health, a copy of their respective professional license and photo identification, together with any other forms or documents the State Health Officer may require, by contacting the Office of Public Health, Louisiana Volunteers in Action

(LAVA) program (<https://www.lava.dhh.louisiana.gov/index.php>) at 225-354-3569, 225-354-3573, 225-354-3566, or dhhvol@la.gov.

SECTION 3: This Order is effective upon signature and shall apply retroactively from August 13, 2016, 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 Louisiana in the City of Baton Rouge, on this 17th day of August, 2016.

John Bel Edwards
Governor

ATTEST BY
THE GOVERNOR
Tom Schedler
Secretary of State
1609#011

EXECUTIVE ORDER JBE 16-60

State of Public Health Emergency Removal of Contaminated Materials and Temporary Sheltering Assistance

WHEREAS, pursuant to the Louisiana Homeland Security and Emergency Assistance and Disaster Act, La. R.S. 29:721, et seq., a state of emergency was declared statewide in Proclamation No. 111 JBE 2016, which is currently in effect;

WHEREAS, Louisiana Revised Statute 29:766 authorizes the Governor to declare a state of public health emergency if he finds a public health emergency, as defined in La. R.S. 29:762, has occurred or the threat thereof is imminent;

WHEREAS, in Proclamation No. 116 JBE 2016, a public health emergency was declared in response to the historic flooding which inundated tens of thousands of homes in southern Louisiana;

WHEREAS, Louisiana Revised Statute 29:769 authorizes the Governor's Office of Homeland Security and Emergency Preparedness, in consultation with the secretary of the Department of Health and Hospitals, to decontaminate or cause to be decontaminated, or destroy any material of which there is reasonable cause to believe that it may endanger the public health; and

WHEREAS, Louisiana Revised Statute 29:724 authorizes the Governor, in his statutory charge to meet the dangers to the state and people presented by emergencies or disasters, and in order to effectuate the provisions of this the Louisiana Homeland Security and Emergency Assistance and Disaster Act, to make provision for the availability and use of temporary emergency housing.

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: The Governor's Office of Homeland Security and Emergency Preparedness, in consultation with the secretary of the Department of Health and Hospitals, is hereby authorized to develop and execute a program to decontaminate or cause to be decontaminated and destroy any material of which there is reasonable cause to believe

that it may endanger the public health, and to remove any contaminated material or debris from any affected property. These materials shall include, but not be limited to, any water or mold damaged materials inside residences that sustained flood damage. This program shall also provide for mold remediation.

SECTION 2: This program will be developed for the express purpose of removing health hazards in residences so that the residences may be habitable during the permanent repair process, thus providing for temporary emergency housing, as authorized by Louisiana Revised Statute 29:724, in the following parishes: Acadia, Ascension, Assumption, Avoyelles, Cameron, East Baton Rouge, East Feliciana, Evangeline, Iberia, Iberville, Jefferson Davis, Lafayette, Livingston, Pointe Coupee, St. Charles, St. Helena, St. James, St. John the Baptist, St. Landry, St. Martin, St. Tammany, Tangipahoa, Vermilion, Washington, West Baton Rouge and West Feliciana.

SECTION 3: The Division of Administration shall assist the Governor's Office of Homeland Security and Emergency Preparedness in the development of this program and in management of the contract procurement.

SECTION 4: This Order is effective upon signature and shall continue 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 Louisiana, in the Capitol, in the City of Baton Rouge, on this 22nd day of August, 2016.

John Bel Edwards
Governor

ATTEST BY
THE GOVERNOR
Tom Schedler
Secretary of State
1609#013

EXECUTIVE ORDER JBE 16-61

Flags at Half-Staff—Senator Jackson Beauregard Davis

WHEREAS, former state senator Jackson Beauregard Davis died on August 22, 2016, at the age of 98;

WHEREAS, he received his law degree from Louisiana State University in 1940, where he served as a member of the first law review and was elected President of the Law School student body;

WHEREAS, he served in the U.S. Navy during World War II, and was a part of the intelligence staff of the U.S. Pacific Fleet stationed at Pearl Harbor at the time of the attack on Pearl Harbor on December 7, 1941;

WHEREAS, Senator Davis was elected to the State Senate in 1956 and served six consecutive terms representing citizens in north Louisiana until 1980;

WHEREAS, among his accomplishments, many credit Senator Davis for being instrumental in the establishment of LSU-Shreveport in 1967;

WHEREAS, widely-known as a man of integrity, he received the 2006 Professionalism Award from the Shreveport Bar Association;

WHEREAS, Senator Davis and his wife were also known for combining their efforts to improve and celebrate Louisiana; they were among the founding members of Holiday in Dixie, and, in 2011, they endowed the Rosemary Slattery and Jackson B. Davis Professorship at the LSU Law School to help educate and train future generations of lawyers;

WHEREAS, deeply involved in the community as a member of many civic and social organizations, he served as a member of the Sons of the American Revolution, the Kiwanis Club, the Plantation Ball and the Pearl Harbor Survivors Group;

WHEREAS, Senator Davis' thoughtful knowledge of and appreciation for the law is a legacy which will inspire future generations of lawyers.

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

SECTION 1: As an expression of respect and to honor Senator Jackson Beauregard Davis, the flags of the United States and the State of Louisiana shall be flown at half-staff over the State Capitol on Wednesday, August 31, 2016.

SECTION 2: This Order is effective upon signature and shall remain in effect until sunset, Wednesday, August 31, 2016.

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of Louisiana, at the Capitol, in the City of Baton Rouge, on this 30th day of August, 2016.

John Bel Edwards
Governor

ATTEST BY
THE GOVERNOR
Tom Schedler
Secretary of State
1609#028

EXECUTIVE ORDER JBE 16-62

Flags at Half-Staff—Spencer Chauvin

WHEREAS, Spencer Chauvin, District Chief with the St. John the Baptist Fire Department, died at the age of 36 on Sunday, August 28, 2016, responding to a traffic crash on Interstate 10 near LaPlace;

WHEREAS, he was known for his kind and courageous nature, always willing to help those in need;

WHEREAS, a devoted husband and father and dedicated first responder, District Chief Chauvin began working with the St. John the Baptist Parish Westside Volunteer Fire Department as a teenager, following in the footsteps of his father and grandfather;

WHEREAS, after becoming an EMT and earning an associate of fire science degree, he became a full-time firefighter with the St. John the Baptist Parish Fire Department, eventually working his way up to the position of District Chief; and

WHEREAS, a man who lived his life with integrity and honor, Spencer Chauvin's bravery and service to the State of Louisiana will long be remembered.

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

SECTION 1: As an expression of respect for Spencer Chauvin, the flags of the United States and the State of Louisiana shall be flown at half-staff over the State Capitol until sunset on Friday, September 2, 2016.

SECTION 2: This Order is effective upon signature and shall remain in effect until sunset, Friday, September 2, 2016.

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of Louisiana, at the Capitol, in the City of Baton Rouge, on this 1st day of September, 2016.

John Bel Edwards
Governor

ATTEST BY
THE GOVERNOR
Tom Schedler
Secretary of State
1609#029

EXECUTIVE ORDER JBE 16-63

Emergency Suspension of Certain
Unemployment Insurance Laws

WHEREAS, pursuant to the Louisiana Homeland Security and Emergency Assistance and Disaster Act, La. R.S. 29:721, et seq., the Governor declared a state of emergency in Proclamation No. 111 JBE 2016;

WHEREAS, the State of Louisiana has suffered severe flooding and damage to the state which threatens the safety, health, and security of the citizens of the State of Louisiana, along with private property and public facilities;

WHEREAS, the flooding resulting from this event has displaced thousands of workers and employers from their homes and places of business;

WHEREAS, in addition to the displaced individuals, the flooding has caused numerous communication challenges due to the interruption of mail service, phone service and electricity;

WHEREAS, the evacuations, displacements, communication issues, the inability of employers to access personnel files, and the extraordinary volume of resulting unemployment claims pose serious challenges to the effective and timely administration of the unemployment compensation system;

WHEREAS, Louisiana Revised Statute 29:724 confers upon the Governor emergency powers to deal with emergencies and disasters and to ensure that preparations of this state will be adequate to deal with such emergencies or disasters, and to preserve the lives and property of the citizens of the State of Louisiana, including the authority to suspend the provisions of any regulatory statute prescribing the procedures for conduct of state business, or the orders, rules, or regulations of any state agency, if strict compliance with the provisions of any statute, order, rule, or regulation would in any way prevent, hinder, or delay necessary action in coping with the emergency; and

WHEREAS, the executive director of the Louisiana Workforce Commission has requested the Governor, due to the extreme volume of claims to be processed, suspend the application of La. R.S. 23:1533, 1552, 1600(2) and (3), and 1601(1), (2) and (7)(a), (b) and (d) for disaster-related claims, so as to allow the timely and fair administration of the unemployment insurance program.

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: For the purpose of this executive order, "disaster-related claims" shall mean claims for unemployment compensation filed by persons whose unemployment is directly due to the effects of flooding or due to their inability to get to their job or worksite because they cannot travel through a disaster parish, as determined by the administrator of the state's unemployment compensation program, i.e., the executive director of the Louisiana Workforce Commission. Disaster-related claims will not necessarily include all claims in all parishes included in the flooding disaster proclamations, declarations or orders.

SECTION 2: The following statutes relative to unemployment insurance are hereby suspended to the extent and in the manner described below:

A. La. R.S. 23:1533, which provides for claimants' benefits to be charged against base period employers for purposes of employers' tax experience rating and the protesting of such charges by employers, shall be suspended for disaster-related claims made during the effective period of this Order.

B. La. R.S. 23:1552, which provides for the charging of claimants' benefits to certain employers, shall be suspended for disaster-related claims made during the effective period of this Order.

C. La. R.S. 23:1600(2) and (3) shall be suspended while this Order is in effect for disaster-related claims to the extent that they require claimants to register and search for work, but the requirements in La. R.S. 23:1600(2) that claimants continue to report at an employment office in the manner prescribed by the administrator, and in La. R.S. 23:1600(3) that claimants be able to work and be available for work, are not waived. The requirement to continue to report at an employment office, which is accomplished through either an automated telephone system or the Internet, is not impractical and avoids overpayments, which claimants would be liable to repay. In the immediate aftermath of the flooding, waived requirements are not practical for claimants without fixed temporary or permanent housing and verification of such activities is not practical in many areas affected by the flooding.

D. La. R.S. 23:1601(1), (2) and (7)(a), (b) and (d), which provide certain disqualifications for otherwise eligible claimants, shall be suspended for disaster-related claims beginning while this Order is in effect. Persons having disaster-related claims were not discharged from their employment nor did they quit or leave their employment as contemplated by La. R.S. 23:1601(1) and (2), and the case-by-case adjudication of these issues would be an unproductive and unnecessary use of agency resources that should be devoted to processing the extraordinary high

volume of disaster-related claims that will be filed. Persons who are paid by their employers, but who performed no services for the week(s) paid, are not unemployed and therefore are not eligible to receive unemployment benefits for any such week. Also, this waiver shall not affect the offset of wages from a claimant's weekly benefit amount pursuant to La. R.S. 23:1593.

SECTION 3: This Order is effective upon signature for those parishes already covered by the Major Disaster Presidential Declaration, dated August 14, 2016, and to those parishes covered by any subsequent expansion of the August 14, 2016 Declaration. This Order shall apply retroactively from Friday, August 12, 2016, and shall continue through Monday, September 12, 2016, unless amended, modified, terminated, or rescinded by the Governor prior thereto.

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of Louisiana, at the Capitol, in the City of Baton Rouge, on this 2nd day of September, 2016.

John Bel Edwards
Governor

ATTEST BY
THE GOVERNOR
Tom Schedler
Secretary of State
1609#030

EXECUTIVE ORDER JBE 16-64

Charitable Giving to Public Employees in Response to Flooding

WHEREAS, pursuant to the Louisiana Homeland Security and Emergency Assistance and Disaster Act, La. R.S. 29:721, et seq., the Governor declared a state of emergency in Proclamation No. 111 JBE 2016, which continues to be in effect;

WHEREAS, thousands of Louisiana citizens were displaced and forced to evacuate their homes, many of whom remain uncertain as to the scope and severity of the personal damage suffered, and many whose losses will likely not be covered by insurance;

WHEREAS, many citizens impacted are also public servants of the State of Louisiana;

WHEREAS, multiple public entities have reported employees with significant and severe personal devastating loss as a direct result of this event, and many citizens, businesses, and fellow employees have expressed a willingness and desire to provide aid to those affected;

WHEREAS, during a time of emergency, it is especially necessary to have public employees performing public business and providing critical services to address the overwhelming needs of our State;

WHEREAS, many public employees have performed critical services during the state of emergency declared by Proclamation No. 111 JBE 2016, and continue to serve the people and State of Louisiana without regard for their own personal losses;

WHEREAS, the Code of Governmental Ethics, specifically La. R.S. 42:1111(A), prohibits public servants from receiving anything of economic value for the

performance of the duties and responsibilities of his office or position;

WHEREAS, Ethics Opinions 2012-1458 and 2009-794 recognized that charitable donations could be made to specific employees, provided such donation was unrelated to the performance of the employee's duties and the responsibilities of the office;

WHEREAS, while there is no indication that donations which are sought to be given to public employees are being offered with any relation to the performance of the employee's duties or the responsibilities of the office, the intent behind every donation provided is not expressly known;

WHEREAS, Louisiana Revised Statute 29:724 confers upon the Governor emergency powers to deal with emergencies and disasters and to ensure that preparations of this state will be adequate to deal with such emergencies or disasters, and to preserve the lives and property of the citizens of the State of Louisiana, including the authority to suspend the provisions of any regulatory statute prescribing the procedures for conduct of state business, or the orders, rules, or regulations of any state agency, if strict compliance with the provisions of any statute, order, rule, or regulation would in any way prevent, hinder, or delay necessary action in coping with the emergency; and

WHEREAS, to the extent the Code of Governmental Ethics impedes such a goal, it is necessary to issue an Order for the limited purpose of recognizing an avenue for public servants with flood damage to receive disaster assistance from non-prohibited sources as a direct result of this emergency.

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: To the extent that La. R.S. 42:1111(A) might be interpreted to prohibit the receipt of a charitable donation for the express purpose of benefiting public employees affected by the state of emergency declared by 111 JBE 2016, more specifically, to provide disaster aid or relief to offset the economic losses suffered by public employees as a result of this event, such provision shall be suspended for the limited circumstances described within this Order.

Any fund established to provide charitable donations to a public employee or an identified class of public employees shall utilize objective criteria in both evaluating and administering funds to the employee or employees and include any safeguards necessary to ensure fair and equitable disbursements are made.

Any amounts distributed to or received by a public employee must be based on demonstrated and documented needs directly related to the state of emergency declared by 111 JBE 2016.

The total value of any contributions or donations received by a public employee from not-for-profit organizations or funds created within not-for profit organizations shall not exceed twenty-five thousand dollars.

SECTION 2: Adequate records shall be maintained which document any funds received, raised, and/or distributed pursuant to this Order that demonstrate the need for assistance and document the disbursement thereof,

including: a complete description of the assistance provided; the purpose for which the aid was given; the objective criteria utilized for disbursing assistance; how the recipients were selected; and the name and address of each recipient, including the amount of any distribution. The recipient employee(s) shall maintain records of all such donations.

SECTION 3: This Order shall not be interpreted as providing any exception to the law which restricts the receipt of anything of economic value by a public servant by prohibited sources, as described by La. R.S. 42:1115.

SECTION 4: Nothing in this Order shall be interpreted or construed to limit or prohibit public servants from applying for any disaster aid which is otherwise available to any member of the public.

SECTION 5: This Order shall apply retroactively from Friday, August 12, 2016, and shall continue through December 31, 2016, unless amended, modified, terminated, or rescinded by the Governor prior thereto.

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of Louisiana, at the Capitol, in the City of Baton Rouge, on this 2nd day of September, 2016.

John Bel Edwards
Governor

ATTEST BY
THE GOVERNOR
Tom Schedler
Secretary of State
1609#031

EXECUTIVE ORDER JBE 16-65

Restore Louisiana Task Force

WHEREAS, the floods of March and August of 2016 have been devastating to Louisiana families and communities, affecting fifty-four (54) of the sixty-four (64) Louisiana parishes;

WHEREAS, together, the floods inundated well over 100,000 homes, and have damaged or destroyed churches, schools, businesses, buildings, and public infrastructure all across the State of Louisiana;

WHEREAS, the August flood has been historically severe, as the flood waters swept over whole cities and towns, many of which had never seen flooding before;

WHEREAS, the fundamental priority of the response and recovery from these flood events shall be to assist our fellow Louisiana citizens to return to their homes and communities, and to ensure that those communities are economically, educationally, and socially sound and thriving;

WHEREAS, local, state, federal, and other public and private resources will be committed to the rebuilding and redevelopment of these areas;

WHEREAS, it is essential that such resources be coordinated and targeted as well as leveraged with traditional resources, in order to maximize their impact, improve efficiency and avoid duplication of efforts;

WHEREAS, the importance and magnitude of this response and recovery dictate that a coordinating task force be created;

WHEREAS, the Restore Louisiana Task Force is formed to ensure that redevelopment in response to the flooding is conducted to the highest standards of integrity and quality;

WHEREAS, the Restore Louisiana Task Force will work with all levels of government and in support of local communities to ensure that all impacted parishes have the opportunity to voice their concerns and needs and also see that resources are divided equitably between parishes according to levels of damage and affected population; and

WHEREAS, the Restore Louisiana Task Force will work to ensure transparency and accountability in recovery programs and to ensure that impacted communities remain informed and involved with all parts of the recovery planning process.

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

SECTION 1: The Restore Louisiana Task Force (hereafter the "Task Force") is hereby established within the Office of the Governor.

SECTION 2: The duties of the Task Force include, but are not limited to, the following:

A. The Task Force shall establish both short and long-term priorities in developing plans for recovery and redevelopment. Such priorities and plans shall draw upon traditional state resources and programs and create special programs dedicated to responding to the aftermath of the flooding. Such priorities and plans shall include timelines and benchmark goals. There must be a mechanism for public input and the opportunity to modify priorities and plans based on such input. These priorities and plans shall focus on the following areas: (1) housing and redevelopment; (2) economic and workforce development; (3) education; (4) infrastructure and transportation; (5) healthcare; (6) fiscal stability; (7) family services; and (8) agriculture.

B. In coordination with the Governor's Office of Homeland Security and Emergency Preparedness, the Office of Community Development, and the affected parishes and municipalities, the Task Force shall assist in developing data about the individual, business, and public infrastructure needs for recovery.

C. The Task Force shall work in coordination with state and local governments and the federal delegation to assist in identifying additional sources of federal funding, such as Community Development Block Grant Disaster Recovery funds.

D. The Task Force shall establish a federal and state legislative agenda for the recovery and redevelopment effort and for coordinating between levels and branches of government to implement that agenda.

E. The Task Force shall, in conjunction with parish and local governments, set priorities and offer direction to the Governor's Office of Homeland Security and Emergency Preparedness relating to the use of funds made available through the Robert T. Stafford Disaster Relief and Emergency Assistance Act and any additional available federal funds.

SECTION 3: The Task Force shall be composed of a maximum of twenty-one (21) voting members, who shall be designated by and serve at the pleasure of the Governor. The Governor may also name non-voting ex-officio members of the Task Force.

SECTION 4: Two members of the Task Force shall be selected by the Governor to be Co-Chairs.

SECTION 5: The Task Force shall meet at regularly scheduled meetings and at the call of the Governor or the Co-Chairs.

SECTION 6: The Task Force shall be authorized to set up a committee structure that should include, but not be limited to, committees on housing, education, finance, public infrastructure, and agriculture.

SECTION 7: Task Force members shall not receive additional compensation or a per diem. Further, all voting Task Force members shall be subject to the ethical restrictions contained in La. R.S. 42:1113.

SECTION 8: All meetings of the Task Force shall be subject to the Open Meetings Law as contained in La. R.S. 42:11 et seq. and shall be held in a location to allow access by the public.

SECTION 9: The Task Force shall be staffed by employees of the Office of Community Development. In addition, the Task Force may draw upon staffing and resources from other executive branch agencies as needed, and as approved by the Commissioner of Administration.

SECTION 10: All departments, commissions, boards, offices, entities, agencies, and officers of the State of Louisiana, or any political subdivision thereof, are authorized to cooperate with the Task Force in implementing the provisions of this Order.

SECTION 11: This Order is effective upon signature and shall continue 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 Louisiana, in the Capitol, in the City of Baton Rouge, on this 2nd day of September, 2016.

John Bel Edwards
Governor

ATTEST BY
THE GOVERNOR
Tom Schedler
Secretary of State
1609#032

Emergency Rules

DECLARATION OF EMERGENCY

Board of Elementary and Secondary Education

Bulletin 126—Charter Schools
(LAC 28:CXXXIX.Chapter 27)

The Board of Elementary and Secondary Education (BESE) has exercised the emergency provision in accordance with R.S. 49:953(B), the Administrative Procedure Act, and R.S. 17.6 to amend LAC 28:CXXXIX, *Bulletin 126—Charter Schools*: §2701, Students Eligible to Attend; §2703, Enrollment Capacity; §2707, Application Period; and §2709, Enrollment of Students, Lottery, and Waitlist. This Declaration of Emergency, effective August 19, 2016, will remain in effect for a period of 120 days, or until finally adopted as Rule.

The proposed revisions enable state-authorized charter schools to enroll students displaced as a result of the recent federally declared disaster, Louisiana Severe Storms and Flooding (DR-4277). BESE has exercised the emergency provision in the adoption of these policy revisions to ensure students impacted by DR-4277 continue to receive a high-quality education as their communities and schools rebuild.

Title 28

EDUCATION

Part CXXXIX. Bulletin 126—Charter Schools

Chapter 27. Charter School Recruitment and Enrollment

§2701. Students Eligible to Attend

A. Type 2 Charter Schools. Students meeting residency requirements established in a type 2 charter school's charter are eligible to attend a type 2 charter school. A type 2 charter school may establish residency requirements for students living within the state or may establish residency requirements restricted to a particular parish or parishes.

1. Type 2 charter schools shall collect and verify documents substantiating the residency of each student prior to submitting residency information to statewide student information system. Acceptable documents shall be as follows:

- a. mortgage (if owned);
- b. tax assessor's bill (if owned);
- c. homestead exemption bill (if owned);
- d. current lease of residence for the school year (if leased);
- e. current rent receipt (if leased);
- f. previous two months utility bill (disconnect notices are not acceptable):
 - i. gas;
 - ii. water or sewer;
 - iii. telephone (land line only);
 - iv. cable or satellite television bill;
 - v. internet service;
- g. current driver's license or government-issued identification;

h. current official letter from a government agency such as Department of Children and Family Services or Department of Health regarding services provided; or

i. current bank statements.

2. The name of the parent or legal custodians must appear on each document and the addresses must match on all documents. The residency information must be updated annually prior to the start of school for the student to be enrolled in that school year.

3. If the parent or legal custodian neither owns nor rents a residence and is therefore living with another individual, the parent or legal custodian must provide a notarized affidavit of residency signed by the parent or legal custodian of the student as well as the individual with whom the parent or legal custodian is living. The affidavit of residency must attest to the following:

- a. student's name;
- b. name of parent or legal custodian;
- c. address of parent or legal custodian;
- d. name of the person with whom the parent or legal custodian is living;

e. a statement of attestation by the parent or legal custodian that the student is living with him at the address recorded on the affidavit and that the student has no other residence or domicile; and

f. a statement of attestation by the person with whom the parent or legal custodian is living that these persons in fact live with the individual listed.

4. The person with whom the parent or legal custodian and student are living (who has signed the notarized affidavit) must provide three forms of evidence of residency from the acceptable list of documents outlined above.

5. If parents are separated, divorced or if the legal custodian is other than the biological parents, legal custody documents, signed by a judge with a docket number, indicating the legal custodian or domiciliary parent must be provided.

6. The residency requirements must also be included in the application requirements section contained in exhibit D of the type 2 charter school contracts.

7. Nothing in this policy shall prohibit the admission or readmission to school of a student who meets the definition of homeless under the federal McKinney-Vento Act (42 U.S.C. 11431 et seq.).

B. Type 4 Charter Schools. Only students who would be eligible to attend a traditional public school operated by the local school board holding the type 4 charter or students from the same areas as those permitted to attend the preexisting school, if a conversion charter, are eligible to attend a type 4 charter school, unless an agreement with another city, parish, or other local school board is reached to allow students to attend the charter school.

C. Type 5 Charter School Transferred Pursuant to R.S. 17:10.5. Students eligible to attend a type 5 charter school transferred to the jurisdiction of the Recovery School District pursuant to R.S. 17:10.5 include those students who

would have been eligible to enroll in or attend the pre-existing school under the jurisdiction of the city, parish, or other local public school board or other public school entity prior to its transfer to the recovery school district. In addition, if capacity exists, any students who are eligible to participate in a school choice program established by the prior system shall be permitted to enroll in such type 5 charter schools which have capacity for another student in the appropriate grade.

D. Type 5 Charter School Transferred Pursuant to R.S. 17:10.7. Students eligible to attend a type 5 charter school transferred to the jurisdiction of the recovery school district include any student eligible to attend any school in the system from which the school was transferred. Students eligible to attend such type 5 charter schools may be required to reside in a designated attendance zone, as set forth in a charter school's approved charter.

E. Beginning with the 2011-2012 school year, each elementary and middle charter school, other than a type 2 charter school, may request from and be granted by its chartering authority the authority to give preference in its enrollment procedures to students residing within the neighborhood immediately surrounding the school. The geographic boundaries of the neighborhood immediately surrounding such school shall be determined by the school's chartering authority. The recovery school district may grant or assign preference in its unified enrollment process, described in §2709 of this Bulletin, to students residing within geographic boundaries immediately surrounding each school, as determined by the recovery school district. Type 5 charter schools shall not reserve more than 50 percent of spots in each grade level served for such enrollment preference.

F. Notwithstanding the residency eligibility and verification requirements above, upon approval of the state superintendent, a charter school may enroll a student without such documentation who has been displaced due to a federally declared disaster in Louisiana or surrounding states. As a condition of enrollment, the parent or legal custodian must provide a form signed by the parent or legal custodian of the student that must attest to the following:

1. student's name;
2. name of parent or legal custodian;
3. current address of parent or legal custodian;
4. statement indicating that the student is displaced from another school due to a federally declared disaster; and
5. name of the school in which the student was previously enrolled prior to the federally declared disaster.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), R.S. 17:3973, R.S. 17:3981, R.S. 17:10.5, R.S. 17:10.7, and R.S. 17:1990.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 34:1373 (July 2008), amended LR 37:875 (March 2011), LR 37:2390 (August 2011), LR 38:752 (March 2012), repromulgated LR 38:1394 (June 2012), amended LR 42:1018 (July 2016), LR 42:

§2703. Enrollment Capacity

A. A charter school shall not enroll more than 120 percent of the total number of students that it is authorized to enroll pursuant to its approved charter.

B. In determining the enrollment permitted in each school year, a charter school shall determine the enrollment authorized in its approved charter with respect to the individual school year. Charter schools are not authorized to a cumulative 20 percent increase in each year of its approved charter.

C. In the event of a federally declared disaster in Louisiana or surrounding states, the state superintendent may approve a charter school to exceed 120 percent of the total number of students that it is authorized to enroll pursuant to its approved charter solely for the purpose of enrolling students who have been displaced from their homes or are unable to attend the school in which they were previously enrolled or zoned to attend. The state superintendent shall provide a report to the state board at its next regularly scheduled meeting outlining each charter school granted an increase in its enrollment capacity pursuant to this paragraph. Students enrolled pursuant to this paragraph shall be permitted to remain enrolled in the charter school for the remainder of the school year. Parents or legal custodians found to have misrepresented their displacement status shall be required to return to the school in which the student was previously enrolled or zoned to attend.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), R.S. 17:3981, and R.S. 17:3995.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 34:1374 (July 2008), amended LR 42:

§2707. Application Period

A. Prior to each school year, a charter school shall establish a designated student application period.

B. A student application period shall not be less than one month nor more than three months.

C. Type 5 charter schools shall comply with any unified application period set by the recovery school district, as approved by BESE.

D. An application shall be considered timely if it is submitted during the charter school's designated application period.

E. In the event of a federally declared disaster, a charter school may accept applications for students displaced due to the disaster outside of the designated student application period.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), R.S. 17:3981, and R.S. 17:3991.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 34:1374 (July 2008), amended LR 38:752 (March 2012), repromulgated LR 38:1394 (June 2012), amended LR 42:

§2709. Enrollment of Students, Lottery, and Waitlist

A. Each student submitting a timely application and meeting all residency requirements and admission requirements, as applicable, shall be considered eligible to enroll in a charter school. Additionally, students displaced as a result of a federally declared disaster who submit an application and the form specified in §2701.F of this Bulletin shall be considered eligible to enroll in a charter school.

B. A charter school shall enroll all eligible students unless the total number of eligible applicants exceeds the capacity of a program, class, grade level, or school.

C. A charter school shall admit no pupil during the school's designated application period, but shall wait until the period has ended.

D. At the conclusion of a charter school's designated application period, it shall determine if fewer eligible applicants have applied than the maximum number of students that the school can admit.

1. If fewer eligible applicants have applied than the maximum number of students that the school can admit to a program, a grade level, or the school, all eligible students shall be admitted.

2. If the total number of eligible students exceed the capacity of a program, a grade level, or the school, applicants shall be admitted based on an admissions lottery from among the total number of eligible applicants.

a. A charter school shall use a lottery for the selection of students in order to reach its maximum capacity and to determine the order in which students will be placed on a waitlist.

b. If a charter school's enrollment capacity is increased for the purpose of enrolling students displaced due to a federally declared disaster and the charter school's designated application period has passed, the charter school may enroll students displaced due to a federally declared disaster on a first come, first served basis until the enrollment capacity is reached.

E. Following the admission of applicants after a determination that the number of applicants did not exceed the capacity of a program, a class, or the school, the charter school may continue to accept applications and admit eligible students in the order in which applications are received until maximum capacity is reached.

F. A charter school's lottery and continued admission of applicants, following a determination that a lottery is not required at the conclusion of the student application period, shall be performed in such a fashion that assures compliance with all at-risk student population requirements. Nothing herein shall preclude the implementation of a weighted lottery to ensure all at-risk student population requirements are met.

G. Any charter school not participating in the recovery school district's unified enrollment system in Subsection J of this Section shall maintain a waitlist of applicants not admitted to the charter school as a result of capacity being reached in a program, a grade, or the school.

1. Applicants shall be placed on the waitlist in the order in which they were selected in the charter school's lottery or in the order in which they applied if the application was submitted following the school's application period.

2. If an opening occurs at a charter school, selection from the waitlist shall begin with the first applicant on the waitlist.

H. A charter school shall maintain its waitlist throughout each school year. Any student admitted to the school must be an applicant on the waitlist, if a waitlist exists for the respective program, grade or school.

I. The charter school shall repeat the student admission process described in this Section each year.

J. Type 5 charter schools transferred to the RSD pursuant to R.S. 17:10.5 and R.S. 17:10.7 and type 3B charter schools shall comply with any unified enrollment system established by the RSD for the parish or region where the charter school is located. The RSD may create any policies and procedures to implement a unified enrollment system not prohibited by this Chapter, and may conduct one or more central lotteries to enroll students at participating schools, and enroll students applying or requesting transfers after the application period has ended.

1. Upon request of a charter operator, the department shall allow an enrollment preference for students matriculating into eighth grade or below between two BESE-authorized charter schools operated by the same charter operator.

2. In addition, the Department of Education shall manage a pilot program wherein the department shall allow an enrollment preference for those students matriculating or transferring into ninth grade or above between eligible BESE-authorized charter schools for a limited percentage of the seats in the charter school, to be determined by the department. The department shall develop an application process for participation in the pilot program which shall evaluate factors including the applying charter schools' past demonstration of success in preparing at-risk and low-performing students for college and/or career, and the submission of an innovative proposal to utilize the enrollment preference to further this success. The department shall collect relevant data on the pilot program in order to prepare a report to be presented by the state superintendent to BESE no later than January, at which time BESE shall consider the continuation of the pilot program based on the results of the report. The report shall include data and information including, but not limited to:

a. the demographic and academic backgrounds of students utilizing the preference;

b. the number and percentage of students who matriculated or transferred into participating schools;

c. the number and percentage of students who were admitted to the school utilizing the enrollment preference; and

d. the number and percentage of students attempting to enroll or transfer in the charter school who were ineligible to utilize the enrollment preference.

K. Beginning with the enrollment process to place students for the 2014-2015 school year, all BESE-authorized charter schools (type 2, type 4, and type 5 charter schools) and type 1b charter schools physically located in Orleans Parish shall participate in the unified enrollment system and expulsion process established by the recovery school district for Orleans Parish, with the exception of virtual charter schools. The department of education shall have discretion to determine on an individual basis whether to require virtual charter schools physically located in Orleans Parish to participate in the unified enrollment system and expulsion process. BESE-authorized charter schools and type 1B charter schools participating in the unified enrollment system and expulsion process may retain admission requirements, geographic preferences, sibling preferences, and disciplinary regulations unrelated to expulsions, if authorized by law or BESE policy. BESE shall retain

authority over the approval of amendments to charter contracts for such type 2 and type 4 charter schools for adjustments to grade levels served and enrollment projections. Schools participating in the unified enrollment and expulsion process shall not be permitted to maintain student waitlists.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), R.S. 17:3981, and R.S. 17:3991.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 34:1374 (July 2008), amended LR 38:753 (March 2012), repromulgated LR 38:1395 (June 2012), amended LR 38:3120 (December 2012), LR 39:1021 (April 2013), LR 39:1437 (June 2013), LR 39:3252 (December 2013), LR 41:1265 (July 2015), LR 42:

James D. Garvey, Jr.
President

1609#012

DECLARATION OF EMERGENCY

Board of Elementary and Secondary Education

Bulletin 137—Louisiana Early Learning Center
Licensing Regulations (LAC 28:CLXI.1703)

The Board of Elementary and Secondary Education (BESE) has exercised the emergency provision in accordance with R.S. 49:953(B), the Administrative Procedure Act, and R.S. 17.6 to amend LAC 28:CLXI, *Bulletin 137—Louisiana Early Learning Center Licensing Regulations*: §1703, Criminal Background Checks for Volunteers, Staff, Visitors and Independent Contractors. This Declaration of Emergency, effective August 26, 2016, will remain in effect until November 30, 2016.

The proposed policy revision will allow childcare center staff to use their current criminal background checks to work in centers serving children displaced by the recent storms and flooding. The policy change allows a director or owner to affirm via affidavit that the employee had a clean background check and allows the employee to immediately meet a need for child care workers in affected areas. This policy revision will be in effect until November 30, 2016.

Title 28

EDUCATION Part CLXI. Bulletin 137—Louisiana Early Learning Center Licensing Regulations Chapter 17. Minimum Staffing Requirements and Standards

§1703. Criminal Background Checks for Volunteers, Staff, Visitors and Independent Contractors

A. - H.2.e. ...

I. 2016 Flood-Related CBC Affidavits

1. Applicability

a. This Subsection applies to childcare staff members who were employed on August 12, 2016, by a licensed early learning center located in Louisiana.

b. The covered parishes are those parishes covered by the Louisiana Severe Storms and Flooding (DR-4277) major disaster declaration issued under the authority of 42 U.S.C. 5121 et seq. (the “Stafford Act”). The covered parishes are Acadia Parish, Ascension Parish, Avoyelles Parish, East Baton Rouge Parish, East Feliciana Parish, Evangeline Parish, Iberia Parish, Iberville Parish, Jefferson

Davis Parish, Lafayette Parish, Livingston Parish, Pointe Coupee Parish, St. Helena Parish, St. Landry Parish, St. Martin Parish, St. Tammany Parish, Tangipahoa Parish, Vermilion Parish, Washington Parish and West Feliciana Parish.

2. Such childcare staff members may submit to an early learning center located in the covered parishes, or any early learning center that has taken into its care children displaced by the severe storms and flooding, a valid 2016 flood-related CBC affidavit, and the center shall accept the valid 2016 flood-related CBC affidavit as documentation of a satisfactory fingerprint-based CBC until the new center obtains its own satisfactory CBC from the bureau for the staff member. However, under no circumstances shall a 2016 flood-related affidavit be valid after November 30, 2016.

3. A 2016 flood-related CBC affidavit shall be valid if it:

a. meets all requirements of this Subsection;
b. is on a form prescribed by the Licensing Division;

c. is completed and signed by the individual who was the director or the owner of the employing licensed early learning center on August 12, 2016;

d. expressly states that the person signing the affidavit is certifying that the affidavit is being provided for a person who was a current staff member of the former early learning center on August 12, 2016, and for whom a satisfactory fingerprint-based CBC had been previously obtained by that center; and

e. is an original, completed, and notarized affidavit.

4. Affidavits prepared and used in accordance with this Subsection shall become null and void on November 30, 2016, and this Subsection shall no longer be valid after November 30, 2016.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:407.42.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:631 (April 2015), effective July 1, 2015, amended LR 41:2106 (October 2015), LR 42:

James D. Garvey, Jr.
President

1609#021

DECLARATION OF EMERGENCY

Board of Regents Office of Student Financial Assistance

Scholarship/Grant Programs
(LAC 28:IV.703 and 1903)

The Louisiana Board of Regents is exercising the emergency provisions of the Administrative Procedure Act [R.S. 49:953(B)] to amend and re-promulgate the rules of the Scholarship/Grant programs [R.S. 17:3021-3025, R.S. 3041.10-3041.15, and R.S. 17:3042.1.1-3042.8, R.S. 17:5001 et seq., and R.S. 56:797.D(2)].

This rulemaking adds AP Computer Science A as a course which will be graded on a 5.0 grading scale beginning with the graduating class of 2018 and adds an expiration date to the provision requiring a postsecondary institution to list an

amount designated as Tuition Only which shall be the same as the TOPS Award Amount to be paid to eligible students attending that school.

The Emergency Rule is necessary to implement changes to the Scholarship/Grant programs to allow the Louisiana Office of Student Financial Assistance and state educational institutions to effectively administer these programs. A delay in promulgating rules would have an adverse impact on the financial welfare of the eligible students and the financial condition of their families. LASFAC has determined that this Emergency Rule is necessary in order to prevent imminent financial peril to the welfare of the affected students.

This Declaration of Emergency is effective August 24, 2016, and shall remain in effect for the maximum period allowed under the Administrative Procedure Act. (SG17173E)

**Title 28
EDUCATION**

Part IV. Student Financial Assistance—Higher Education

Scholarship and Grant Programs

Chapter 7. Taylor Opportunity Program for Students (TOPS) Opportunity, Performance, and Honors Awards

§703. Establishing Eligibility

A.1. - A.5.a.ii.(e). ...

(f). For students graduating in academic year (high school) 2017-2018 and after, the courses listed in the tables below have been approved by the Board of Regents and the state Board of Elementary and Secondary Education to be converted to a 5.00 scale when used to complete the core curriculum, and shall be considered equivalent to the identified core courses and may be substituted to satisfy corresponding core courses for purposes of satisfying the requirements of §703.A.5.a.i above, or §803.A.6.a.

(i). Advanced Placement Courses

TOPS Core Course	Advanced Placement
US Government or Civics	AP U.S. Government and Politics: Comparative AP U.S. Government and Politics: United States
US History	AP U.S. History
World Geography	AP Human Geography
World History	AP World History

A.5.a.ii.(f).(ii). - J.4.b.ii. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3025, R.S. 17:3042.1, and R.S. 17:3048.1.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 22:338 (May 1996), repromulgated LR 24:636 (April 1998), amended LR 24:1902 (October 1998), LR 24:2237 (December 1998), LR 25:257 (February 1999), LR 25:655 (April 1999), LR 25:1794 (October 1999), LR 26:64, 67 (January 2000), LR 26:689 (April 2000), LR 26:1262 (June 2000), LR 26:1602 (August 2000), LR 26:1996, 1999, 2001 (September 2000), LR 26:2268 (October 2000), LR 26:2753 (December 2000), LR 27:36 (January 2001), LR 27:702 (May 2001), LR 27:1219, 1219 (August 2001), repromulgated LR 27:1850 (November 2001), amended LR 28:772 (April 2002), LR 28:2330, 2332 (November 2002), LR 29:125 (February 2003), LR 29:2372 (November 2003), LR 30:1162 (June 2004), LR 30:1471 (July 2004), LR 30:2019 (September 2004), LR 31:37 (January 2005), LR 31:2213 (September 2005), LR 31:3112 (December 2005), LR 32:2239 (December 2006), LR 33:435 (March 2007), LR 33:2357 (November 2007), LR 33:2612 (December 2007), LR 34:1389 (July 2008), LR 35:228 (February 2009), LR 36:312 (February 2010), LR 36:490 (March 2010), LR 36:2269 (October 2010), LR 36:2855 (December 2010), LR 37:2987 (October 2011), LR 38:354 (February 2012), LR 38:3158 (December 2012), LR 39:481 (March 2013), LR 39:2485 (September 2013), LR 40:54 (January 2014), LR 41:373 (February 2015), LR 41:651, 664 (April 2015), LR 41:1486 (August 2015), LR 41:2596, 2599 (December 2015), LR 42:

Chapter 19. Eligibility and Responsibilities of Post-Secondary Institutions

§1903. Responsibilities of Post-Secondary Institutions

A. - B.10.c. ...

11.a. Beginning with the spring semester of 2014 through the spring semester of 2016, for a public college or university to be permitted to bill for a TOPS award amount under the provisions of Section 1903.B.6 of these rules, the college or university must include on the student fee bill line items entitled:

- i. "Tuition Only" that equals the TOPS award amount listed on the fee bill;
- ii. "TOPS Award Amount" as defined in Section 301; and
- iii. "TOPS Stipends" for TOPS Honors and Performance Award stipends. These amounts shall not be included in the "Tuition Only" or "TOPS Award Amount" line items.

b. There shall be no reference to a tuition amount on a student's fee bill other than as provided herein.

C. - G.2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3036, R.S. 17:3042.1, 17:3041.10-3041.15, 17:3041.21-3041.26, R.S. 17:3048.1, and R.S. 17:3050.1-3050.4.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 22:338 (May 1996), repromulgated LR 24:645 (April 1998), amended LR 24:1914 (October 1998), LR 25:1459 (August 1999), LR 26:1998 and 2002 (September 2000), repromulgated LR 27:1864 (November 2001), amended LR 28:448 (March 2002), LR 28:775 (April 2002), LR 28:1760 (August 2002), LR 28:2333 (November 2002), LR 30:784 (April 2004), LR 30:1166 (June

TOPS Core Course	Advanced Placement
Art	AP Art History AP Studio Art: 2-D Design AP Studio Art: 3-D Design AP Studio Art: Drawing
Biology II	AP Biology
Calculus	AP Calculus AB AP Calculus BC
Chemistry II	AP Chemistry
Chinese	AP Chinese Language and Culture
Economics	AP Macroeconomics AP Microeconomics
English III	AP English Language and Composition
English IV	AP English Literature and Composition
Environmental Science	AP Environmental Science
European History	AP European History
Fine Arts Survey	AP Music Theory
French	AP French Language and Culture
German	AP German Language and Culture
Italian	AP Italian Language and Culture
Japanese	AP Japanese Language and Culture
Latin	AP Latin
Mathematics	AP Computer Science A
Physics I	AP Physics I: Algebra Based AP Physics II: Algebra Based AP Physics C: Electricity and Magnetism AP Physics C: Mechanics
Probability and Statistics	AP Statistics
Spanish	AP Spanish Language and Culture

2004), LR 31:40 (January 2005), LR 31:3111, 3114 (December 2005), LR 33:1340 (July 2007), LR 35:1233 (July 2009), LR 35:1490 (August 2009), LR 35:1491 (August 2009), LR 36:2857 (December 2010), LR 40:282 (February 2014), LR 40:1003 (May 2014), LR 41:667 (April 2015), LR 41:2599 (December 2015), LR 42:

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DECLARATION OF EMERGENCY

Office of the Governor Division of Administration Patient's Compensation Fund Oversight Board

Emergency Relief to Certain Qualified
Health Care Providers (LAC 37:III.Chapter 1)

Upon finding that imminent peril to the public health, safety or welfare required adoption of an emergency rule, the Patient's Compensation Fund Oversight Board (Oversight Board), under authority of the Louisiana Medical Malpractice Act, R.S. 40:1231.1 et seq. (MMA), and in accordance with the Administrative Procedure Act, R.S. 49:950 et seq., adopted this Emergency Rule 5 at its meeting held on September 1, 2016.

On August 12, 2016, Governor John Bel Edwards issued Proclamation No. 111 JBE 2016 and declared the existence of a State of Emergency within the state of Louisiana caused by flash flooding and severe weather (Great Flood of 2016). This State of Emergency extended from Friday, August 12, 2016 through Saturday, September 10, 2016.

On August 17, 2016, at the request of Commissioner of Insurance James J. Donelon, Governor John Bel Edwards issued Executive Order No. JBE 2016-58, wherein Governor John Bel Edwards ordered, *inter alia*, (i) a limited transfer of authority to Commissioner of the Department of Insurance James J. Donelon to suspend provisions of any regulatory statute of Title 22 of the Louisiana Revised Statutes of 1950 concerning the cancellation, termination, nonrenewal and nonreinstatement provisions of Title 22; and that (ii) the limited transfer of authority shall remain in full force and effect retroactively from Friday, August 12, 2106 through Monday, September 12, 2016.

On or about August 19, 2016, Louisiana Insurance Commissioner James J. Donelon acknowledged the foregoing and issued Emergency Rule 27 suspending certain statutes and regulations regarding cancellations, non-renewals, reinstatements, premium payments, claim filings and related provisions regarding any and all insurance matters affecting certain insureds from the Parishes of Acadia, Ascension, Avoyelles, East Baton Rouge, East Feliciana, Evangeline, Iberia, Iberville, Jefferson Davis, Lafayette, Livingston, Pointe Coupee, St. Helena, St. Landry, St. Martin, St. Tammany, Tangipahoa, Vermilion, Washington, West Feliciana and any such parishes that have or may hereafter receive a major disaster declaration by the President of the United States or such officer acting under his authority for the Great Flood of 2016.

Tens of thousands of Louisiana citizens, including many qualified health care providers (QHCPs) enrolled in the

Patient's Compensation Fund (Fund or PCF), have suffered damages due to the Great Flood of 2016. The health care practices and homes of many QHCPs and the homes of many patients were destroyed or were without power precluding the operation of practices, habitation and the delivery of mail. It is believed that this disruption has affected for some time, the ability of these QHCPs to timely pay their annual renewal PCF surcharges in full and, as such, may seriously affect the provision of health care services by QHCPs to patients in Louisiana. The Great Flood of 2016 has created a mass disruption to the normalcy previously enjoyed by QHCPs and patients and produced an immediate threat to the public health, safety, and welfare of Louisiana citizens, both patients and QHCPs alike.

Accordingly, Emergency Rule 5 was adopted by the Oversight Board and shall apply to certain QHCPs as set forth in this Emergency Rule.

In the ordinary course of business and pursuant to LAC 37:III.517, a QHCP is allowed a "grace" period of 30 days in which to pay the annual renewal PCF surcharge in full to the insurer, the PCF or to the self-insurance trust, as applicable, to extend PCF coverage for another year. The Great Flood of 2016 and its aftermath have produced a disruption in the ability of many QHCPs in these affected areas to timely pay the annual renewal PCF surcharge in full to maintain their enrollment in the Fund. This could result in a QHCP being without PCF coverage or having a gap in PCF coverage. Emergency Rule 5 was adopted to provide emergency relief to certain QHCPs as set forth therein.

Title 37

INSURANCE

Part III. Patient's Compensation Fund Oversight Board Chapter 1. General Provisions

§115. Qualified Health Care Provider Services

A.1. Emergency Rule 5 shall apply to all QHCPs:

a. who, as of 12:01 a.m. on August 12, 2016, reside in, whose operation(s) and/or practice(s) are located in, or whose primary place of employment was in, or whose permanent employer had assigned said person to a business located in, one or more of the following parishes or in one or more of any other parish(es) that have or may hereafter receive a major disaster declaration by the president of the United States or such officer acting under his authority: Acadia, Ascension, Avoyelles, East Baton Rouge, East Feliciana, Evangeline, Iberia, Iberville, Jefferson Davis, Lafayette, Livingston, Pointe Coupee, St. Helena, St. Landry, St. Martin, St. Tammany, Tangipahoa, Vermilion, Washington, and West Feliciana; and

b. whose renewal date or 30 day grace period for payment of the PCF annual renewal surcharge occurs on or after August 12, 2016 but prior to the expiration of this Emergency Rule.

2. For purposes of this Emergency Rule 5, QHCPs who meet all of the above criteria shall be referred to herein as "affected QHCPs". The provisions of this Emergency Rule 5 shall not apply to any health care provider not previously enrolled in the PCF prior to August 12, 2016.

3. The oversight board's rules, previously promulgated in the *Louisiana Register*, and the applicable provisions of the PCF's rate manual, to the extent that said regulatory provisions impose upon QHCPs a time limit to pay the applicable annual PCF renewal surcharges, shall be

suspended for affected QHCPs during the effective periods set forth in this Emergency Rule 5. Except as provided for in Subparagraph A.5 of this §115, the cancellation of PCF qualification for affected QHCPs for failure to timely pay an annual PCF renewal surcharge is hereby suspended until September 12, 2016.

a. PCF surcharges for all Affected QHCPs whose renewal date or 30 day grace period for payment of the annual PCF renewal surcharge occurs on or after August 12, 2016 but prior to or on September 12, 2016 (suspension period), shall be due and owing on September 12, 2016. Affected QHCPs shall also furnish the required proof of financial responsibility concurrently with the payment of the appropriate surcharge. PCF surcharges for all other QHCPs shall be due, owing and payable consistent with the oversight board's previously promulgated rules.

b. The executive director is hereby granted continuing authority to reasonably extend the suspension period for those Affected QHCPs who certify to the oversight board in writing that said affected QHCP was impacted by the Great Flood of 2016 in a manner, including but not limited to, evacuation, displacement, temporary relocation, or loss of power, sufficient to prevent the timely payment of the renewal surcharge.

c. The 30 day grace period provided for in LAC 37:III.517 for payment of the annual PCF renewal surcharge by affected QHCPs who have been granted an extension of the suspension period shall commence on the day immediately following the end of the extended suspension period; the 30 day grace period for all other affected QHCPs shall commence on September 13, 2016.

4. In the event an insurer, agent or trust fund collects a renewal surcharge during the suspension period from an affected QHCP, then the renewal surcharge shall be timely remitted to the PCF consistent with the MMA and the oversight board's applicable rules.

5. A cancellation of PCF qualification for an affected QHCP shall not occur prior to September 12, 2016 unless upon the documented written request or written concurrence of the Affected QHCP.

6. Unless otherwise cancelled pursuant to the provisions of Paragraph 5 herein, nothing in this Emergency Rule 5 shall be construed to exempt or excuse an Affected QHCP from the obligation to pay the applicable PCF surcharge for renewal or for an extended reporting endorsement otherwise due for actual PCF qualification provided during the suspension period.

7. Emergency Rule 5 shall not relieve an affected QHCP from compliance with the MMA and the applicable oversight board's rules upon receiving notice of the filing of a medical review panel request (claim) against the affected QHCP.

8. The provisions of Emergency Rule 5 shall be liberally construed to effectuate the intent and purposes expressed herein and to afford maximum protection for the Affected QHCPs and the citizens of Louisiana.

9. Emergency Rule 5 became effective on August 12, 2016 and shall continue in full force and effect to September 12, 2016.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1231.4(D)(3) and to be consistent with Emergency Rule No. 27 of the Louisiana Department of Insurance.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Patient's Compensation Fund Oversight Board, LR 42:

§117. Termination; Survival

A. Emergency Rule 5 shall terminate at 12:01 a.m. on September 12, 2016. However, Subparagraphs A.3 and A.6 through A.8 of §115 shall survive the termination of this Emergency Rule 5.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1231.4(D)(3) and to be consistent with Emergency Rule No. 27 of the Department of Insurance.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Patient's Compensation Fund Oversight Board, LR 42:

§119. Severability Clause

A. If any section or provision of Emergency Rule 5, as originally adopted and/or amended, is held invalid, such invalidity or determination shall not affect other Sections or provisions, or the application of Emergency Rule 5, as originally adopted and/or amended, to the affected QHCPs or circumstances that can be given effect without the invalid Sections or provisions and the application to affected QHCPs or circumstances shall be severable.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1231.4(D)(3) and to be consistent with Emergency Rule No. 27 of the Department of Insurance.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Patient's Compensation Fund Oversight Board, LR 42:

Ken Schnauder
Executive Director

1609#033

DECLARATION OF EMERGENCY

Department of Health Board of Pharmacy

Standing Orders for Distribution of Naloxone
(LAC 46:LIII.2541)

The Louisiana Board of Pharmacy is exercising the emergency provisions of the Administrative Procedure Act, specifically at R.S. 49:953.B, to promulgate a new rule authorizing pharmacists to distribute naloxone and other opioid antagonists pursuant to standing orders issued by Louisiana-licensed medical practitioners in lieu of patient-specific prescriptions.

The abuse and addiction to opioids is a global problem that is estimated to affect between 26.4 million and 36 million people worldwide. Of those addicted in the United States, 2.1 million are addicted to prescription drugs and another 517,000 are addicted to heroin, according to estimates from the federal Centers for Disease Control and Prevention (CDC). Deaths in the United States, and Louisiana, related to opioid drug use have been rising since 1999, resulting in more deaths in 2014 than ever before. Data from the coroners and medical examiners in Louisiana reveal 100 deaths in this state in 2011 rising over time to 248 deaths in 2015.

Preliminary data for the first six months of 2016 indicate we are on the same deadly trajectory. Naloxone and other opioid antagonists are prescription drugs that produce rapid

and dramatic reversals of life-threatening symptoms of opioid-related drug overdoses. Since time is of the essence in drug overdose cases, it is important the drugs be readily available to whoever might first encounter the overdose patient, be it family, caregivers, or first responders.

Act 370 of the 2016 Louisiana Legislature authorized licensed medical practitioners to issue nonpatient-specific standing orders for the distribution of naloxone and other opioid antagonists, in lieu of patient-specific prescriptions those drug products. The legislation also authorized pharmacists to dispense or distribute naloxone and other opioid antagonists pursuant to those standing orders as provided by rules promulgated by the Board Pharmacy.

The board has determined this Emergency Rule is necessary to prevent imminent peril to the public health, safety, and welfare. The Declaration of Emergency is effective August 10, 2016, and shall remain in effect for the maximum time period allowed under the Administrative Procedure Act or until adoption of the final rule, whichever shall first occur.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part LIII. Pharmacists

Chapter 25. Prescriptions, Drugs, and Devices

Subchapter D. Prescription Drugs

§2541. Standing Orders for Distribution of Naloxone and Other Opioid Antagonists

A. Given the current public health emergency relative to the misuse and abuse of opioid derivatives, public health officials have strongly recommended the widespread availability of naloxone and other opioid antagonists to addicts and their caregivers as well as first responders in the community.

B. For as long as naloxone and other opioid antagonists remain classified as prescription drugs by the federal Food and Drug Administration, pharmacists must secure a prescription or order from a prescriber with the legal authority to prescribe the drug product in order to dispense or distribute the drug product.

C. The Louisiana Legislature has adopted a number of laws designed to facilitate the distribution and dispensing of naloxone and other opioid antagonists beyond the person who would need the medication on an emergent basis to manage an opioid-related drug overdose, more specifically to first responders as well as caregivers and family and friends of potential patients.

1. Act 253 of the 2014 Legislature authorized prescribers to issue prescriptions for naloxone and other opioid antagonists to first responders, and further, authorized pharmacists to recognize such prescriptions as legitimate orders for the dispensing and distribution of naloxone and other opioid antagonist drug products, and further, authorized first responders to have and hold those drug products ready for administration in emergent conditions to manage opioid-related drug overdoses.

2. Act 192 of the 2015 Legislature authorized medical practitioners to prescribe naloxone or another opioid antagonist without having previously examined the individual to whom the medication would be administered, but only under certain conditions specified in the legislation, including the requirement for the prescriber to provide the

recipient of the drug with all training and education required for the safe and proper administration of the drug product.

3. Act 370 of the 2016 Legislature authorized medical practitioners to issue nonpatient-specific standing orders to pharmacists authorizing the distribution of naloxone and other opioid antagonists to anyone who might be in a position to assist a patient in the emergent management of an opioid-related drug overdose, but only in compliance with these rules.

a. A nonpatient-specific standing order for the facilitated distribution of naloxone or other opioid antagonist issued by a medical practitioner licensed by the State of Louisiana shall expire one year after the date of issuance.

b. A Louisiana-licensed pharmacist may distribute naloxone or other opioid antagonist according to the terms of the nonpatient-specific standing order issued by a Louisiana-licensed medical practitioner until the expiration date of the standing order. No pharmacist shall distribute naloxone or other opioid antagonist pursuant to a standing order more than one year after the date of issuance of the standing order.

c. Before releasing the naloxone or other opioid antagonist drug product to the recipient, the pharmacist shall verify the recipient's knowledge and understanding of the proper use of the drug product, including, at a minimum:

i. techniques on how to recognize signs of an opioid-related drug overdose;

ii. standards and procedures for the storage and administration of the drug product; and

iii. emergency follow-up procedure including the requirement to summon emergency services either immediately before or immediately after administering the drug product to the individual experiencing the overdose.

d. To comply with the recordkeeping requirements found elsewhere in the board's rules, the pharmacist shall attach a copy of the standing order to the invoice or other record of sale or distribution, and further, shall store these transaction documents with the other distribution records in the pharmacy.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health, Board of Pharmacy, LR 42:

Malcolm J. Broussard
Executive Director

1609#026

DECLARATION OF EMERGENCY

Department of Health Bureau of Health Services Financing

Disproportionate Share Hospital Payments
Louisiana Low-Income Academic Hospitals
(LAC 50:V.2501 and Chapter 31)

The Department of Health, Bureau of Health Services Financing amends LAC 50:V.2501 and adopts LAC 50:V. Chapter 31 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Emergency Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:953(B)(1) et seq., and shall be in

effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

The Department of Health and Hospitals, Bureau of Health Services Financing promulgated Emergency Rules which amended the provisions governing disproportionate share hospital (DSH) payments to hospitals participating in public-private partnerships in the south and north Louisiana areas (*Louisiana Register*, Volume 39, Numbers 7 and 10). As a result of the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services' disapproval of the corresponding State Plan amendments, the department determined that it was necessary to repeal the provisions of the July 6, 2013 and October 1, 2013 Emergency Rules governing DSH payments to the hospitals participating in the south and north Louisiana area public-private partnerships.

The department promulgated an Emergency Rule which amended the provisions governing DSH payments in order to establish payments to Louisiana low-income academic Hospitals (*Louisiana Register*, Volume 40, Number 6). The department subsequently amended the provisions of the May 24, 2014 Emergency Rule to clarify the provisions governing the payment methodology to Louisiana low-income academic hospitals (*Louisiana Register*, Volume 40, Number 9). The department promulgated an Emergency Rule which amended the provisions of the September 20, 2014 Emergency Rule in order to clarify qualifying criteria for Louisiana low-income academic hospitals and the reimbursement methodology. This Emergency Rule also amends the provisions governing the DSH payment methodology (*Louisiana Register*, Volume 42, Number 6). This Emergency Rule is being promulgated to continue the provisions of the June 20, 2016 Emergency Rule. This action is being taken to promote the health and welfare of Medicaid recipients by maintaining recipient access to much needed hospital services.

Effective October 19, 2016 the Department of Health, Bureau of Health Services Financing amends the provisions governing DSH payments to low-income academic hospitals and the DSH payment methodology.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part V. Hospital Services

Subpart 3. Disproportionate Share Hospital Payments

Chapter 25. Disproportionate Share Hospital Payment Methodologies

§2501. General Provisions

A. - C. ...

D. - 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, Office of the Secretary, Bureau of Health Services Financing, LR 34:657 (April 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 40:790 (April 2014), amended by the Department of Health, Bureau of Health Services Financing, LR 42:

Chapter 31. Louisiana Low-Income Academic Hospitals

§3101. Qualifying Criteria

A. Hospitals Located Outside of the Baton Rouge and New Orleans Metropolitan Statistical Area

1. Effective for dates of service on or after July 1, 2016, a hospital may qualify for this category by:

a. being a private acute care general hospital that is located outside of the Baton Rouge and New Orleans metropolitan statistical area (MSA) which:

i. entered into a cooperative endeavor agreement with the State of Louisiana to increase its provision of inpatient Medicaid and uninsured services by providing services that were previously delivered and terminated or reduced by a state owned and operated facility; or

ii. is formerly a state owned and operated hospital whose ownership change to non-state privately owned and operated prior to July 1, 2014;

b. has Medicaid inpatient days utilization greater than 18.9 percent. Qualification shall be calculated by dividing the Medicaid inpatient days by the total inpatient days reported on the Medicaid as filed cost report ending during state fiscal Year 2015 received by April 30, 2016, and shall include traditional, shared, and managed care Medicaid days per the worksheet S-3 part I, lines 1 through 18. Column 7 shall be used to determine allowable Medicaid days and column 8 shall be used to determine total inpatient days; and

c. has a ratio of intern and resident full time equivalents (FTEs) to total inpatient beds that is greater than .08. Qualification shall be based on the total inpatient beds and intern and resident FTEs reported on the Medicare/Medicaid cost report ending during state fiscal year 2015. The ratio of interns and resident FTEs shall be calculated by dividing the unweighted intern and resident FTEs reported on the Medicare Cost Report Worksheet E-4, line 6 by the total inpatient beds, excluding nursery and Medicare designated distinct part psychiatric unit beds, reported on worksheet S-3, column 2, lines 1 through 18.

B. Hospitals Located In the New Orleans Metropolitan Statistical Area

1. Effective for dates of service on or after July 1, 2016, a hospital may qualify for this category by:

a. being a private acute care general hospital that is located in the New Orleans MSA which

i. entered into a cooperative endeavor agreement with the State of Louisiana to increase its provision of inpatient Medicaid and uninsured services by providing services that were previously delivered and terminated or reduced by a state owned and operated facility; or

ii. is formerly a state owned and operated hospital whose ownership changed to non-state privately owned and operated prior to July 1, 2014;

b. has Medicaid inpatient days utilization greater than 45 percent. Qualification shall be calculated by dividing the Medicaid inpatient days by the total inpatient days reported on the Medicaid as filed cost report ending during state fiscal year 2015 received by April 30, 2016, and shall include traditional, shared, and managed care Medicaid days per the worksheet S-3 part I, lines 1 through 18. Column 7 shall be used to determine allowable Medicaid days and column 8 shall be used to determine total inpatient days; and

c. has a ratio of intern and resident FTEs to total inpatient beds that is greater than 1.25. Qualification shall be based on the total inpatient beds and intern and resident FTEs reported on the Medicare/Medicaid cost report ending during state fiscal year 2015. The ratio of interns and

resident FTEs shall be calculated by dividing the unweighted intern and resident FTEs reported on the Medicare Cost Report Worksheet E-4, line 6 by the total inpatient beds, excluding nursery and Medicare designated distinct part psychiatric unit beds, reported on worksheet S-3, column 2, lines 1 through 18.

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

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 42:

§3103. Payment Methodology

A. Each qualifying hospital shall be paid DSH adjustment payments equal to 100 percent of allowable hospital specific uncompensated care costs.

1. Costs, patient specific data and documentation that qualifying criteria is met shall be submitted in a format specified by the department.

2. Costs and lengths of stay shall be reviewed by the department for reasonableness before payments are made.

B. - 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, Bureau of Health Services Financing, LR 42:

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.

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 all inquiries regarding this Emergency Rule. A copy of this Emergency Rule is available for review by interested parties at parish Medicaid offices.

Rebekah E. Gee MD, MPH
Secretary

1609#052

DECLARATION OF EMERGENCY

Department of Health Bureau of Health Services Financing

Healthcare Services Provider Fees
Nursing Facility Services Providers
(LAC 48:I.4001)

The Department of Health, Bureau of Health Services Financing amends LAC 48:I.4001 in the Medical Assistance Program as authorized by R.S. 36:254 and R.S. 46:2625. This Emergency Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:953(B)(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

The Department of Health and Hospitals, Bureau of Health Services Financing, amended the provisions governing provider fees in order to place provider fees for

pharmacy services in the appropriate section in the *Louisiana Administrative Code* (*Louisiana Register*, Volume 33, Number 1).

Act 675 of the 2016 Regular Session of the Louisiana Legislature directed the Department of Health to increase provider fees for nursing facilities. In compliance with Act 675, the Department of Health, Bureau of Health Services Financing amends the provisions governing provider fees in order to increase the limit of the provider fee for nursing facilities.

This action is being taken to avoid a budget deficit by securing new funding through increased revenue collections. It is estimated that implementation of this Emergency Rule will increase revenue collections in the Medicaid Program by approximately \$9,856,892 for state fiscal year 2016-2017.

Effective September 1, 2016, the Department of Health, Bureau of Health Services Financing amends the provisions governing provider fees to increase the limit of the provider fee for nursing facilities.

Title 48

PUBLIC HEALTH—GENERAL

Part I. General Administration

Subpart 1. General

Chapter 40. Provider Fees

§4001. Specific Fees

A. - B.1. ...

2. The provider fee imposed for nursing facility services shall not exceed 6 percent of the average revenues received by providers of that class of services and shall not exceed \$12.08 per occupied bed per day. The fee amount shall be calculated annually in conjunction with updating provider reimbursement rates under the Medical Assistance Program. Notice to providers subject to fees shall be given in conjunction with the annual rate setting notification by the Bureau of Health Services Financing.

C. - D. ...

E. - F. Reserved.

AUTHORITY NOTE: Promulgated in accordance with Chapter 45 of Title 46 as enacted in 1992, 46:2601-2605, redesignated as Chapter 47 of Title 46, containing R.S. 46:2621 to 46:2625 and P.L. 102-234.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Management and Finance, LR 19:347 (March 1993), amended LR 20:51 (January 1994), LR 26:1478 (July 2000), amended by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 33:100 (January 2007), amended by the Department of Health, Bureau of Health Services Financing, LR 42:

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 Emergency Rule. A copy of this Emergency Rule is available for review by interested parties at parish Medicaid offices.

Rebekah E. Gee MD, MPH
Secretary

1609#014

DECLARATION OF EMERGENCY

**Department of Health
Bureau of Health Services Financing
and
Office of Aging and Adult Services**

Home and Community-Based Services Waivers
Adult Day Health Care Waiver
Electronic Visit Verification
(LAC 50:XXI.2705)

The Department of Health, Bureau of Health Services Financing and the Office of Aging and Adult Services adopt LAC 50:XXI.2705 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Emergency Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:953(B)(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

The Department of Health, Bureau of Health Services Financing and the Office of Aging and Adult Services, through collaborative efforts, provide enhanced long-term services and supports to individuals with physical, mental or functional impairments through the Adult Day Health Care (ADHC) Waiver program.

The Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Aging and Adult Services promulgated an Emergency Rule which amended the provisions governing the ADHC Waiver in order to adopt requirements which mandate that providers of personal assistant services must utilize the electronic visit verification (EVV) system designated by the department for automated scheduling, time and attendance tracking, and billing for certain home and community-based services (*Louisiana Register*, Volume 41, Number 10). This Emergency Rule is being promulgated to continue the provisions of the November 1, 2015 Emergency Rule.

This action is being taken to promote the health and welfare of ADHC Waiver participants by assuring that they receive the services they need, and to ensure that these services are rendered in an efficient and cost-effective manner.

Effective October 17, 2016, the Department of Health, Bureau of Health Services Financing and the Office of Aging and Adult Services amend the provisions governing the Adult Day Health Care Waiver to establish requirements for the use of an EVV system.

Title 50

**PUBLIC HEALTH—MEDICAL ASSISTANCE
Part XXI. Home and Community-Based Services
Waivers**

Subpart 3. Adult Day Health Care

Chapter 27. Provider Responsibilities

§2705. Electronic Visit Verification

A. Effective for dates of service on or after November 1, 2015, Adult Day Health Care Waiver providers shall use the electronic visit verification (EVV) system designated by the department for automated scheduling, time and attendance tracking, and billing for certain home and community-based services.

B. Reimbursement shall only be made to providers with documented use of the EVV system. The services that require use of the EVV system will be published in the ADHC Waiver 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, Bureau of Health Services Financing and the Office of Aging and Adult Services, LR 42:

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.

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 all inquiries regarding this Emergency Rule. A copy of this Emergency Rule is available for review by interested parties at parish Medicaid offices.

Rebekah E. Gee MD, MPH
Secretary

1609#053

DECLARATION OF EMERGENCY

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

Inpatient Hospital Services
Children’s Specialty Hospitals
Supplemental Payments for New Orleans Area Hospitals
(LAC 50:V.969)

The Department of Health, Bureau of Health Services Financing adopts LAC 50:V.969 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Emergency Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:953(B)(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

As a result of the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services’ disapproval of the state plan amendment for the financing of the transition of the management and operation of certain children's specialty hospitals from state-owned and operated to private partners, the Department of Health and Hospitals, Bureau of Health Services Financing promulgated an Emergency Rule which adopted a supplemental payment methodology for inpatient hospital services rendered by children’s specialty hospitals in the New Orleans area (*Louisiana Register*, Volume 41, Number 2). This Emergency Rule is being promulgated to continue the provisions of the February 12, 2015 Emergency Rule. This action is being taken to promote the health and welfare of Medicaid recipients by ensuring sufficient provider participation and continued access to inpatient hospital services through the maximization of federal dollars.

Effective October 9, 2016, the Department of Health, Bureau of Health Services Financing adopts provisions governing supplemental payments for inpatient hospital services rendered by children's specialty hospitals in the New Orleans area.

Title 50
PUBLIC HEALTH—MEDICAL ASSISTANCE
Part V. Hospital Services
Subpart 1. Inpatient Hospital Services
Chapter 9. Non-Rural, Non-State Hospitals
Subchapter B. Reimbursement Methodology
§969. Supplemental Payments to Children's Specialty Hospitals in the New Orleans Area

A. Effective for dates of service on or after February 12, 2015, quarterly supplemental payments shall be made for inpatient hospital services rendered in a hospital in the New Orleans area that meets the following qualifying criteria per the as filed cost report ending in state fiscal year 2014:

1. classified by Medicare as a specialty children's hospital;
2. has a least 100 full-time equivalent interns and residents;
3. has least 70 percent Medicaid inpatient days' utilization rate;
4. has at least 25,000 Medicaid inpatient days; and
5. has a distinct part psychiatric unit.

B. Supplemental payments for inpatient hospital services will be paid quarterly up to the hospital specific upper payment limit (the difference between Medicaid inpatient charges and Medicaid inpatient payments). The payments to the qualifying hospital(s) shall not exceed:

1. the annual Medicaid hospital specific inpatient charges per 42 CFR 447.271;
2. the annual aggregate inpatient hospital upper payment limit for the classification of hospitals per 42 CFR 442.272; and
3. the budgeted state fiscal year supplemental payment amount included in the Annual Appropriation Act as allocated to this specific program in the budget spread pursuant to the department's reimbursement methodology.

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

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 42:

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.

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 Emergency Rule. A copy of this Emergency Rule is available for review by interested parties at parish Medicaid offices.

Rebekah E. Gee MD, MPH
Secretary

1609#054

DECLARATION OF EMERGENCY

Department of Health
Bureau of Health Services Financing

Inpatient Hospital Services
Non-Rural, Non-State Hospitals
Public Hospitals Supplemental Payments
(LAC 50:V.963)

The Department of Health, Bureau of Health Services Financing amends LAC 50:V.963 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Emergency Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:953(B)(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

The Department of Health and Hospitals, Bureau of Health Services Financing amended the provisions governing inpatient hospital services to provide supplemental Medicaid payments to qualifying non-rural, non-state public hospitals (*Louisiana Register*, Volume 39, Number 6). The department promulgated an Emergency Rule which amended the reimbursement methodology governing inpatient hospital services in order to amend the provisions governing supplemental Medicaid payments to qualifying non-rural, non-state public hospitals (*Louisiana Register*, Volume 41, Number 10). This Emergency Rule is being promulgated in order to continue the provisions of the October 1, 2015 Emergency Rule. This action is being taken to promote the health and welfare of Medicaid recipients by ensuring sufficient provider participation and continued access to inpatient hospital services through the maximization of federal dollars.

Effective September 28, 2016, the Department of Health, Bureau of Health Services Financing amends the provisions governing the reimbursement methodology for inpatient hospital services rendered by non-rural, non-state public hospitals.

Title 50
PUBLIC HEALTH—MEDICAL ASSISTANCE
Part V. Hospital Services
Subpart 1. Inpatient Hospital Services
Chapter 9. Non-Rural, Non-State Hospitals
Subchapter B. Reimbursement Methodology
§963. Public Hospitals

A. - B.1. ...

a. be designated as a major teaching hospital by the department as of July 1, 2015 and have at least 300 licensed acute hospital beds; or

B.1.b. - 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 38:2772 (November 2012), amended LR 38:3181 (December 2012), repromulgated LR 39:95 (January 2013), amended LR 39:1471 (June 2013), amended by the Department of Health, Bureau of Health Services Financing, LR 42:

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 Emergency Rule. A copy of this Emergency Rule is available for review by interested parties at parish Medicaid offices.

Rebekah E. Gee MD, MPH
Secretary

1609#055

DECLARATION OF EMERGENCY

Department of Health Bureau of Health Services Financing

Inpatient Hospital Services
Non-Rural, Non-State Hospitals
Supplemental Payments for Baton Rouge Area Hospitals
(LAC 50:V.973)

The Department of Health, Bureau of Health Services Financing adopts LAC 50:V.973 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Emergency Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:953(B)(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

As a result of the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services' disapproval of the state plan amendment for the financing of the transition of the management and operation of certain hospitals from state-owned and operated to private partners, the Department of Health and Hospitals, Bureau of Health Services Financing promulgated an Emergency Rule which amended the provisions governing inpatient hospital services rendered by non-rural, non-state hospitals in order to adopt a supplemental payment methodology for services provided by hospitals located in the Baton Rouge area (*Louisiana Register*, Volume 41, Number 2). This Emergency Rule is being promulgated to continue the provisions of the February 12, 2015 Emergency Rule.

This action is being taken to promote the health and welfare of Medicaid recipients by ensuring sufficient provider participation and continued access to inpatient hospital services through the maximization of federal dollars.

Effective October 9, 2016, the Department of Health, Bureau of Health Services Financing adopts provisions governing the reimbursement methodology for inpatient hospital services rendered by non-rural, non-state hospitals in the Baton Rouge area.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part V. Hospital Services

Subpart 1. Inpatient Hospital Services

Chapter 9. Non-Rural, Non-State Hospitals

Subchapter B. Reimbursement Methodology

§973. Supplemental Payments to Baton Rouge Area Hospitals

A. Effective for dates of service on or after February 12, 2015, quarterly supplemental payments shall be made for inpatient hospital services rendered in a hospital in the Baton Rouge area that meets the following qualifying criteria per the as filed cost report ending in state fiscal year 2014:

1. classified as a major teaching hospital;
2. has at least 3,000 Medicaid deliveries, as verified per the Medicaid data warehouse; and
3. has at least 45 percent Medicaid inpatient days utilization rate.

B. Supplemental payments for inpatient hospital services will be paid quarterly up to the hospital specific upper payment limit (the difference between Medicaid inpatient charges and Medicaid inpatient payments). The payments to the qualifying hospital(s) shall not exceed:

1. the annual Medicaid hospital specific inpatient charges per 42 CFR 447.271;
2. the annual aggregate inpatient hospital upper payment limit for the classification of hospitals per 42 CFR 442.272; and
3. the budgeted state fiscal year supplemental payment amount included in the Annual Appropriation Act as allocated to this specific program in the budget spread pursuant to the department's reimbursement methodology.

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

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 42:

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.

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 Emergency Rule. A copy of this Emergency Rule is available for review by interested parties at parish Medicaid offices.

Rebekah E. Gee MD, MPH
Secretary

1609#056

DECLARATION OF EMERGENCY

Department of Health Bureau of Health Services Financing

Inpatient Hospital Services
Non-Rural, Non-State Hospitals
Supplemental Payments for Monroe Area Hospitals
(LAC 50:V.971)

The Department of Health, Bureau of Health Services Financing adopts LAC 50:V.971 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Emergency Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:953(B)(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

As a result of the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services' disapproval of the state plan amendment for the financing of the transition of the management and operation of certain hospitals from state-owned and operated to private partners, the Department of Health and Hospitals (DHH), Bureau of Health Services Financing promulgated an Emergency Rule which amended the provisions governing the reimbursement methodology for inpatient hospital services rendered by non-rural, non-state hospitals in order to adopt a supplemental payment methodology for services provided by hospitals located in LDH Administrative Region 8 in the Monroe area (*Louisiana Register*, Volume 41, Number 2). This Emergency Rule is being promulgated in order to continue the provisions of the February 12, 2015 Emergency Rule.

This action is being taken to promote the health and welfare of Medicaid recipients by ensuring sufficient provider participation and continued access to inpatient hospital services through the maximization of federal dollars.

Effective October 9, 2016, the Department of Health, Bureau of Health Services Financing adopts provisions governing the reimbursement methodology for inpatient hospital services rendered by non-rural, non-state hospitals in the Monroe area.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part V. Hospital Services

Subpart 1. Inpatient Hospital Services

Chapter 9. Non-Rural, Non-State Hospitals

Subchapter B. Reimbursement Methodology

§971. Supplemental Payments to Monroe Area Hospitals

A. Effective for dates of service on or after February 12, 2015, quarterly supplemental payments shall be made for inpatient hospital services rendered by a hospital in the Monroe area that meets the following qualifying criteria:

1. inpatient acute hospital classified as a major teaching hospital;
2. located in LDH Administrative Region 8 (lowest per capita income of any region per the 2010 U.S. Census Bureau records); and
3. per the as filed fiscal year ending June 30, 2013 cost report has:

- a. greater than 25 full-time equivalent interns and residents;
- b. at least 40 percent Medicaid inpatient days utilization; and
- c. a distinct part psychiatric unit.

B. Supplemental payments for inpatient hospital services will be paid quarterly up to the hospital specific upper payment limit (the difference between Medicaid inpatient charges and Medicaid inpatient payments). The payments to the qualifying hospital(s) shall not exceed:

1. the annual Medicaid hospital specific inpatient charges per 42 CFR 447.271;
2. the annual aggregate inpatient hospital upper payment limit for the classification of hospitals per 42 CFR 442.272; and
3. the budgeted state fiscal year supplemental payment amount included in the Annual Appropriation Act as allocated to this specific program in the budget spread pursuant to the department's reimbursement methodology.

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

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 42:

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.

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 Emergency Rule. A copy of this Emergency Rule is available for review by interested parties at parish Medicaid offices.

Rebekah E. Gee MD, MPH
Secretary

1609#057

DECLARATION OF EMERGENCY

Department of Health Bureau of Health Services Financing

Intermediate Care Facilities for Persons with
Intellectual Disabilities—Public Facilities
Reimbursement Rate Increase
(LAC 50:VII.32969)

The Department of Health, Bureau of Health Services Financing amends LAC 50:VII.32969 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Emergency Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:953(B)(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

The Department of Health and Hospitals, Bureau of Health Services Financing amended the provisions governing the reimbursement methodology for public intermediate care facilities for persons with developmental

disabilities (ICFs/DD), hereafter referred to as intermediate care facilities for persons with intellectual disabilities (ICFs/ID), to establish a transitional Medicaid reimbursement rate for community homes that are being privatized (*Louisiana Register*, Volume 39, Number 2). This Rule also adopted all of the provisions governing reimbursements to state-owned and operated facilities and quasi-public facilities in a codified format for inclusion in the *Louisiana Administrative Code*.

The department promulgated an Emergency Rule which amended the provisions governing the transitional rates for public facilities in order to redefine the period of transition (*Louisiana Register*, Volume 39, Number 10). The department subsequently promulgated an Emergency Rule to assure compliance with the technical requirements of R.S. 49:953, and to continue the provisions of the October 1, 2013 Emergency Rule governing transitional rates for public facilities (*Louisiana Register*, Volume 40, Number 3). The department promulgated an Emergency Rule which amended the provisions governing the reimbursement methodology for ICFs/ID to increase the add-on amount to the per diem rate for the provider fee (*Louisiana Register*, Volume 40, Number 3).

Due to an increase in the add-on amount to the per diem rate for the provider fee, the department promulgated an Emergency Rule which amended the provisions governing the transitional rates for public facilities in order to increase the Medicaid reimbursement rate (*Louisiana Register*, Volume 40, Number 9). This Emergency Rule is being promulgated to continue the provisions of the October 1, 2014 Emergency Rule. This action is being taken to protect the public health and welfare of Medicaid recipients transitioning from public ICFs/ID by ensuring continued provider participation in the Medicaid Program.

Effective September 26, 2016, the Department of Health, Bureau of Health Services Financing amends the provisions governing the reimbursement methodology for public intermediate care facilities for persons with intellectual disabilities.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part VII. Long Term Care

Subpart 3. Intermediate Care Facilities for Persons with Intellectual Disabilities

Chapter 329. Reimbursement Methodology

Subchapter C. Public Facilities

§32969. Transitional Rates for Public Facilities

A. - F.4. ...

G. Effective for dates of service on or after October 1, 2014, the transitional Medicaid reimbursement rate shall be increased by \$1.85 of the rate in effect on September 30, 2014.

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 42:

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 Emergency Rule. A copy of this Emergency Rule is available for review by interested parties at parish Medicaid offices.

Rebekah E. Gee MD, MPH
Secretary

1609#058

DECLARATION OF EMERGENCY

Department of Health Bureau of Health Services Financing

Nursing Facilities—Reimbursement Methodology
Pass Through Rate Increase
(LAC 50:II.20005)

The Department of Health, Bureau of Health Services Financing amends LAC 50:II.20005 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Emergency Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:953(B)(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

The Department of Health and Hospitals, Bureau of Health Services Financing amended the provisions governing the reimbursement methodology for nursing facilities in order to reduce the per diem rates paid to non-state nursing facilities (*Louisiana Register*, Volume 41, Number 5).

Act 675 of the 2016 Regular Session of the Louisiana Legislature directed the Department of Health to increase provider fees for nursing facilities. In compliance with Act 675, the department published an Emergency Rule which amended the provisions governing provider fees in order to increase the provider fee for nursing facilities (*Louisiana Register*, Volume 42, Number 9). The department now amends the provisions governing nursing facilities reimbursement to include the provider fee increase in the nursing facility pass through rate.

This action is being taken to promote the health and welfare of Medicaid recipients by ensuring continued access to nursing facilities. It is estimated that implementation of this Emergency Rule will increase expenditures in the Medicaid Program by approximately \$10,976,631 for state fiscal year 2016-2017.

Effective September 1, 2016, the Department of Health, Bureau of Health Services Financing amends the provisions governing the reimbursement methodology for nursing facilities to include the provider fee increase in the nursing facility pass through rate.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part II. Nursing Facilities

Subpart 5. Reimbursement

Chapter 200. Reimbursement Methodology

§20005. Rate Determination

[Formerly LAC 50:VII.1305]

A. - D.4.b. ...

c. Effective September 1, 2016, the pass through rate shall be increased as a result of the provider fee increase

on nursing facility days from \$10 per day up to \$12.08 per day per occupied bed.

D.5. - Q. ...

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 28:1791 (August 2002), amended LR 31:1596 (July 2005), LR 32:2263 (December 2006), LR 33:2203 (October 2007), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 36:325 (February 2010), repromulgated LR 36:520 (March 2010), amended LR 36:1556 (July 2010), LR 36:1782 (August 2010), LR 36:2566 (November 2010), LR 37:902 (March 2011), LR 37:1174 (April 2011), LR 37:2631 (September 2011), LR 38:1241 (May 2012), LR 39:1286 (May 2013), LR 39:3097 (November 2013), LR 41:707 (April 2015), LR 41:949 (May 2015), amended by the Department of Health, Bureau of Health Services Financing, LR 42:

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

Public Comments

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 Emergency Rule. A copy of this Emergency Rule is available for review by interested parties at parish Medicaid offices.

Rebekah E. Gee MD, MPH
Secretary

1609#015

DECLARATION OF EMERGENCY

Department of Health Bureau of Health Services Financing

Outpatient Hospital Services
Children's Specialty Hospitals
Supplemental Payments for New Orleans Area Hospitals
(LAC:V.6121)

The Department of Health, Bureau of Health Services Financing adopts LAC 50:V.6121 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Emergency Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:953(B)(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

As a result of the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services' disapproval of the state plan amendment for the financing of the transition of the management and operation of certain children's specialty hospitals from state-owned and operated to private partners, the Department of Health and Hospitals,

Bureau of Health Services Financing promulgated an Emergency Rule which adopted a supplemental payment methodology for outpatient hospital services rendered by children's specialty hospitals in the New Orleans area (*Louisiana Register*, Volume 41, Number 2). This Emergency Rule is being promulgated to continue the provisions of the February 12, 2015 Emergency Rule. This action is being taken to promote the health and welfare of Medicaid recipients by ensuring sufficient provider participation and continued access to inpatient hospital services through the maximization of federal dollars.

Effective October 9, 2016, the Department of Health, Bureau of Health Services Financing adopts provisions governing outpatient supplemental payments for outpatient hospital services rendered by children's specialty hospitals in the New Orleans area.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part V. Hospitals

Subpart 5. Outpatient Hospitals

Chapter 61. Other Outpatient Hospital Services

Subchapter B. Reimbursement Methodology

§6121. Supplemental Payments for Children's Specialty Hospitals in the New Orleans Area

A. Effective for dates of service on or after February 12, 2015, quarterly supplemental payments shall be made for outpatient hospital services rendered in a hospital in the New Orleans area that meets the following qualifying criteria per the as filed cost report in state fiscal year 2014:

1. classified by Medicare as a specialty children's hospital;
2. has at least 100 full-time equivalent interns and residents;
3. has at least 70 percent Medicaid inpatient days' utilization rate;
4. has at least 25,000 Medicaid inpatient days; and
5. has a distinct part psychiatric unit.

B. Supplemental payments for outpatient hospital services will be paid quarterly. The payments to the qualifying hospital(s) shall not exceed:

1. the aggregate outpatient hospital upper payment limits for the classification of hospitals pursuant to 42 CFR 447.321; and
2. the budgeted state fiscal year supplemental payment amount included in the Annual Appropriation Act as allocated to this specific program in the budget spread pursuant to the department's reimbursement methodology.

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

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 42:

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.

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 Emergency Rule. A copy of this Emergency Rule is available for review by interested parties at parish Medicaid offices.

Rebekah E. Gee MD, MPH
Secretary

1609#059

DECLARATION OF EMERGENCY

Department of Health Bureau of Health Services Financing

Outpatient Hospital Services
Non-Rural, Non-State Hospitals
Supplemental Payments for Baton Rouge Area Hospitals
(LAC 50:V.6905)

The Department of Health, Bureau of Health Services Financing adopts LAC 50:V.6905 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Emergency Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:953(B)(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

As a result of the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services' disapproval of the state plan amendment for the financing of the transition of the management and operation of certain hospitals from state-owned and operated to private partners, the Department of Health and Hospitals, Bureau of Health Services Financing promulgated an Emergency Rule which amended the provisions governing outpatient hospital services rendered by non-rural, non-state hospitals in order to adopt a supplemental payment methodology for services provided by hospitals located in the Baton Rouge area (*Louisiana Register*, Volume 41, Number 2). This Emergency Rule is being promulgated to continue the provisions of the February 12, 2015 Emergency Rule.

This action is being taken to promote the health and welfare of Medicaid recipients by ensuring sufficient provider participation and continued access to outpatient hospital services through the maximization of federal dollars.

Effective October 9, 2016, the Department of Health, Bureau of Health Services Financing adopts provisions governing the reimbursement methodology for outpatient hospital services rendered by non-rural, non-state hospitals in the Baton Rouge area.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part V. Hospital Services

Subpart 5. Outpatient Hospital Services

Chapter 69. Supplemental Payments

§6905. Non-Rural, Non-State Hospitals in the Baton Rouge Area

A. Effective for dates of service on or after February 12, 2015, quarterly supplemental payments shall be made for outpatient hospital services rendered in a hospital in the Baton Rouge area that meets the following qualifying

criteria per the as filed cost report ending state fiscal year 2014:

1. classified as a major teaching hospital;
2. has at least 3,000 Medicaid deliveries, as verified per the Medicaid data warehouse; and
3. has at least 45 percent Medicaid inpatient days utilization rate.

B. Supplemental payments for outpatient hospital services will be paid quarterly. The payments to the qualifying hospital(s) shall not exceed:

1. the aggregate outpatient hospital upper payment limits for the classification of hospitals pursuant to 42 CFR 447.321; and
2. the budgeted state fiscal year supplemental payment amount included in the Annual Appropriation Act as allocated to this specific program in the budget spread pursuant to the department's reimbursement methodology.

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 Service Financing, LR 42:

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.

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 Emergency Rule. A copy of this Emergency Rule is available for review by interested parties at parish Medicaid offices.

Rebekah E. Gee MD, MPH
Secretary

1609#060

DECLARATION OF EMERGENCY

Department of Health Bureau of Health Services Financing

Outpatient Hospital Services
Non-Rural, Non-State Hospitals
Supplemental Payments for Monroe Area Hospitals
(LAC 50:V.6903)

The Department of Health, Bureau of Health Services Financing adopts LAC 50:V.6903 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Emergency Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:953(B)(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

As a result of the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services' disapproval of the State Plan Amendment for the financing of the transition of the management and operation of certain hospitals from state-owned and operated to private partners, the Department of Health and Hospitals, Bureau of Health

Services Financing promulgated an Emergency Rule which amended the provisions governing the reimbursement methodology for outpatient hospital services rendered by non-rural, non-state hospitals in order to adopt a supplemental payment methodology for services provided by hospitals located in LDH Administrative Region 8 in the Monroe area (*Louisiana Register*, Volume 41, Number 2). This Emergency Rule is being promulgated to continue the provisions of the February 12, 2015 Emergency Rule. This action is being taken to promote the health and welfare of Medicaid recipients by ensuring sufficient provider participation and continued access to outpatient hospital services through the maximization of federal dollars.

Effective October 9, 2016, the Department of Health and Hospitals, Bureau of Health Services Financing adopts provisions governing supplemental payments for outpatient hospital services rendered by non-rural, non-state hospitals in the Monroe area.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part V. Hospital Services

Subpart 5. Outpatient Hospital Services

Chapter 69. Supplemental Payments

§6903. Non-Rural, Non-State Hospitals in the Monroe Area

A. Effective for dates of service on or after February 12, 2015, quarterly supplemental payments shall be made for outpatient hospital services rendered by a hospital in the Monroe area that meets the following qualifying criteria:

1. inpatient acute hospital classified as a major teaching hospital;
2. located in LDH administrative region 8 (lowest per capita income of any region per the 2010 U.S. Census Bureau records); and
3. per the as filed fiscal year ending June 30, 2013 cost report has:
 - a. greater than 25 full-time equivalent interns and residents;
 - b. at least 40 percent Medicaid inpatient days utilization; and
 - c. a distinct part psychiatric unit.

B. Supplemental payments for outpatient hospital services will be paid quarterly. The payments to the qualifying hospital(s) shall not exceed:

1. the aggregate outpatient hospital upper payment limits for the classification of hospitals pursuant to 42 CFR 447.321; and
2. the budgeted state fiscal year supplemental payment amount included in the Annual Appropriation Act as allocated to this specific program in the budget spread pursuant to the department's reimbursement methodology.

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

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 42:

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.

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 Emergency Rule. A copy of this Emergency Rule is available for review by interested parties at parish Medicaid offices.

Rebekah E. Gee MD, MPH
Secretary

1609#061

DECLARATION OF EMERGENCY

Department of Health Bureau of Health Services Financing

Pediatric Day Health Care Facilities
Licensing Standards
(LAC 48:I.5239)

The Department of Health, Bureau of Health Services Financing amends LAC 48:I.5239 in the Medical Assistance Program as authorized by R.S. 36:254 and 40:2193—40:2193.4. This Emergency Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:953(B)(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

The Department of Health and Hospitals, Bureau of Health Services Financing amended the licensing standards for pediatric day health care facilities in order to: 1) revise the provisions governing provider participation, development and educational services and transportation requirements; 2) adopt provisions for the inclusion of PDHC facilities in the Facility Need Review (FNR) Program; and 3) revise the additional grandfather provisions for the FNR process for the Pediatric Day Health Care Program (*Louisiana Register*, Volume 41, Number 1).

The Department of Health, Bureau of Health Services Financing now proposes to amend the licensing standards governing PDHC facilities in order to clarify the provider participation requirements regarding plans of care. This action is being taken to avoid a budget deficit in the medical assistance program. It is estimated that implementation of this Emergency Rule will have no fiscal impact on expenditures in the Medicaid Program in state fiscal year 2016-2017.

Effective September 1, 2016, the Department of Health, Bureau of Health Services Financing amends the licensing standards governing PDHC facilities.

Title 48

PUBLIC HEALTH—GENERAL

Part I. General Administration

Subpart 3. Licensing and Certification

Chapter 52. Pediatric Day Health Care Facilities

Subchapter D. Participation Requirements

§5239. Plan of Care

A. - D.4. ...

E. The medical director shall review the plans of care in consultation with PDHC staff and the prescribing physician every 90 days or more frequently as the child's condition dictates. Prescribed services and therapies included in the plan of care shall be adjusted in consultation with the prescribing physician to accommodate the child's condition.

F. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2193-40:2193.4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 35:2769 (December 2009), amended by the Department of Health, Bureau of Health Services Financing, LR 42:

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 Emergency Rule. A copy of this Emergency Rule is available for review by interested parties at parish Medicaid offices.

Rebekah E. Gee MD, MPH
Secretary

1608#016

DECLARATION OF EMERGENCY

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

Pediatric Day Health Care Program
(LAC 50:XV.27501, 27503, 27901 and 28101)

The Department of Health, Bureau of Health Services Financing amends LAC 50:XV.27501, §27503 and §§27901 and 28101 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Emergency Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:953(B)(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

The Department of Health and Hospitals, Bureau of Health Services Financing amended the provisions governing pediatric day health care (PDHC) services in order to revise the recipient criteria to better align the program’s operational procedures with the approved Medicaid State Plan provisions governing these services (*Louisiana Register*, Volume 41, Number 1).

The Department of Health, Bureau of Health Services Financing now proposes to amend the provisions governing PDHC services in order to clarify these provisions and revise the recipient criteria and reimbursement methodology. This action is being taken to avoid a budget deficit in the Medical Assistance Program. It is estimated that implementation of this Emergency Rule will reduce expenditures in the Medicaid Program by approximately \$572,764 in state fiscal year 2016-2017.

Effective September 1, 2016, the Department of Health, Bureau of Health Services Financing amends the provisions governing the Pediatric Day Health Care Program.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part XV. Services for Special Populations

Subpart 19. Pediatric Day Health Care Program

Chapter 275. General Provisions

§27501. Program Description and Purpose

A. Pediatric Day Health Care (PDHC) Services.

1. An array of services that are designed to meet the medical, social and developmental needs of children up to the age of 21 who have a complex medical condition which requires skilled nursing care and therapeutic interventions on an ongoing basis in order to:

- a. preserve and maintain health status;
- b. prevent death;
- c. treat/cure disease;
- d. ameliorate disabilities or other adverse health conditions; and/or
- e. prolong life.

2. PDHC services offer a community-based alternative to traditional long-term care services or extended nursing services for children with medically complex conditions.

B. ...

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 36:1557 (July 2010), amended by the Department of Health, Bureau of Health Services Financing, LR 42:

§27503. Recipient Criteria

A. In order to qualify for PDHC services, a Medicaid recipient must meet the following criteria. The recipient must:

- 1. ...
- 2. have a medically complex condition which involves one or more physiological or organ systems and requires skilled nursing and therapeutic interventions performed by a knowledgeable and experienced licensed professional registered nurse (RN) or licensed practical nurse (LPN) on an ongoing basis in order to:

- a. preserve and maintain health status;
- b. prevent death;
- c. treat/cure disease;
- d. ameliorate disabilities or other adverse health conditions; and/or
- e. prolong life;

3. have a signed physician’s order and plan of care, not to exceed 90 days, for pediatric day health care by the recipient’s physician specifying the frequency and duration of services; and

a. - e. Repealed.

4. be stable for outpatient medical services in a home or community-based setting.

4.a. - 6. Repealed.

B. ...

C. Re-evaluation of PDHC services must be performed, at a minimum, every 90 days. This evaluation must include a review of the recipient’s current medical plan of care and provider agency documented current assessment and progress toward goals.

D. A face-to-face evaluation shall be held every 90 days by the child’s prescribing physician. Services shall be revised during evaluation periods to reflect accurate and appropriate provision of services for current medical status.

E. - F. ...

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR

36:1557 (July 2010), amended LR 41:137 (January 2015), amended by the Department of Health, Bureau of Health Services Financing, LR 42:

Chapter 279. Provider Participation

§27901. General Provisions

A. ...

B. A parent, legal guardian or legally responsible person providing care to a medically complex child in a home or any other extended care or long-term care facility, is not considered to be a PDHC facility and shall not be enrolled in the Medicaid Program as a PDHC services provider.

C. ...

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 36:1558 (July 2010), amended by the Department of Health, Bureau of Health Services Financing, LR 42:

Chapter 281. Reimbursement Methodology

§28101. General Provisions

A. ...

1. A full day of service is more than six hours, not to exceed a maximum of 12 hours per day.

2. A partial day of service is six hours or less per day.

B. - C. ...

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 36:1558 (July 2010), amended LR 39:1286 (May 2013), amended by the Department of Health, Bureau of Health Services Financing, LR 42:

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

Public Comments

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 Emergency Rule. A copy of this Emergency Rule is available for review by interested parties at parish Medicaid offices.

Rebekah E. Gee MD, MPH
Secretary

1608#017

DECLARATION OF EMERGENCY

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

Pharmacy Benefits Management Program
Methods of Payment

The Department of Health, Bureau of Health Services Financing hereby rescinds the provisions of the November 1, 2012 Emergency Rule which revised the reimbursement methodology for pharmacy services covered under the Medical Assistance Program as authorized by R.S. 36:254. This Emergency Rule was adopted on October 19, 2012 and

published in the November 20, 2012 edition of the *Louisiana Register*. This Emergency Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:953(B)(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

The Department of Health, Bureau of Health Services Financing provides coverage and reimbursement for prescription drugs to Medicaid eligible recipients enrolled in the Medicaid Program. The department promulgated an Emergency Rule which amended the provisions of the September 5, 2012 Emergency Rule to further revise the provisions governing the methods of payment for prescription drugs and the dispensing fee (*Louisiana Register*, Volume 38, Number 11).

Upon further consideration and consultation with the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS) on the corresponding Medicaid State Plan Amendment, the department determined that it was necessary to rescind the provisions of the November 1, 2012 Emergency Rule governing the reimbursement methodology for services rendered in the Pharmacy Benefits Management Program, and to return to the reimbursement rates in effect on September 5, 2012 which is consistent with the currently approved Medicaid State Plan (*Louisiana Register*, Volume 40, Number 10). This Emergency Rule is being promulgated to continue the provisions of the October 1, 2014 Emergency Rule.

Effective September 26, 2016, the Department of Health, Bureau of Health Services Financing rescinds the Emergency Rule governing pharmacy services which appeared in the November 20, 2013 edition of the *Louisiana Register* on pages 2725-2728.

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 Emergency Rule. A copy of this Emergency Rule is available for review by interested parties at parish Medicaid offices.

Rebekah E. Gee MD, MPH
Secretary

1609#062

DECLARATION OF EMERGENCY

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

Pharmacy Benefits Management Program
State Supplemental Rebate Agreement Program
(LAC 50:XXIX.Chapter 11)

The Department of Health, Bureau of Health Services Financing adopts LAC 50:XXIX.Chapter 11 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Emergency Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:953(B)(1) et seq., and shall be in effect for the maximum

period allowed under the Act or until adoption of the final Rule, whichever occurs first.

The Department of Health, Bureau of Health Services Financing provides Medicaid coverage of prescription drugs through its Pharmacy Benefits Management Program. The department amended the provisions governing the Pharmacy Benefits Management Program in order to establish provisions for the Medicaid Program's participation in The Optimal PDL Solution (TOPS) State Supplemental Rebate Agreement Program which is a multi-state Medicaid state supplemental drug rebate pooling initiative (*Louisiana Register*, Volume 39, Number 10). This program allows states to leverage their pharmaceutical purchasing power as a group to achieve more supplemental rebates than could be achieved independently. It is anticipated that this program will lower the net cost of brand drugs and the overall dollars spent on pharmacy benefits. The department promulgated an Emergency Rule to assure compliance with the technical requirements of R.S. 49:953, and to continue the provisions of the October 1, 2013 Emergency Rule governing the Pharmacy Benefits Management Program which established provisions for the Medicaid Program's participation in The Optimal PDL Solution (TOPS) State Supplemental Rebate Agreement Program (*Louisiana Register*, Volume 40, Number 3). This Emergency Rule is being promulgated to continue the provisions of the February 22, 2014 Emergency Rule. This action is being taken to avoid a budget deficit in the medical assistance programs.

Effective October 17, 2016, the Department of Health, Bureau of Health Services Financing amends the provisions governing the Medicaid coverage of prescription drugs to establish provisions for participation in TOPS State Supplemental Rebate Agreement Program.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part XXIX. Pharmacy

Chapter 11. State Supplemental Rebate Agreement Program

§1101. General Provisions

A. Effective October 1, 2013, the Department of Health and Hospitals, Bureau of Health Services Financing hereby establishes provisions for participation in The Optimal PDL Solution (TOPS) State Supplemental Rebate Agreement (SRA) Program. TOPS is a multi-state Medicaid state supplemental drug rebate pooling initiative approved by the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services and administered by Provider Synergies, L.L.C/Magellan Medicaid Administration. The purpose of this program is to allow states the opportunity to leverage their pharmaceutical purchasing power as a group to achieve more supplemental rebates and discounts from prescription drug companies than could be achieved independently.

B. Pursuant to R.S. 46:153.3, the department shall enter into a contractual agreement with Provider Synergies to participate in TOPS. Provider Synergies/Magellan Medicaid Administration will act on the department's behalf to provide the necessary administration services relative to this agreement for the provision of state supplemental drug rebate contracting and preferred drug list administration services.

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

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 42:

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 Emergency Rule. A copy of this Emergency Rule is available for review by interested parties at parish Medicaid offices.

Rebekah E. Gee MD, MPH
Secretary

1609#063

DECLARATION OF EMERGENCY

Department of Insurance Office of the Commissioner

Emergency Rule 27—Suspension of Certain Statutory Legal Matters—Cancellations, Non-Renewals, Reinstatements, Premium Payments, Claim Filings and Related Provisions (LAC 37:XI.Chapter 49)

The Department of Insurance hereby exercises the emergency provisions of the Administrative Procedure Act, R.S. 49:953(B), and pursuant to the authority granted by *Louisiana Revised Statutes* 22:1 et seq., adopts Emergency Rule 27. Emergency Rule 27 shall be effective upon adoption, August 12, 2016, and shall remain effective to Monday, September 12, 2016 unless terminated sooner by the commissioner or by the governor.

Emergency Rule 27 is issued to address the historic flooding in Louisiana. Emergency Rule 27 is issued pursuant to the transfer of authority to suspend provisions of regulatory statutes and implementing regulations from the governor to the commissioner of insurance in Executive Order JBE 2016-58, issued by Governor John Bel Edwards on August 18, 2016. The transfer of authority in Executive Order JBE 2016-58 is authorized in the Louisiana Homeland Security and Emergency Assistance and Disaster Act, R.S. 29:721 et seq., and rules promulgated by the commissioner relative to the *Louisiana Insurance Code* are authorized in R.S. 22:11, and are promulgated through the aforementioned Administrative Procedure Act.

On August 12, 2016, Governor John Bel Edwards declared a State of Emergency within the state of Louisiana in response to historic flooding in Louisiana. This State of Emergency, declared pursuant to Proclamation No. 111 JBE 2016, extends from Friday, August 12, 2016 to Monday, September 12, 2016. Louisiana citizens have suffered damage due to this historic flooding. In some places, it could be several weeks before electricity is restored. The homes of many Louisiana citizens were destroyed, precluding habitation. The damage caused by this historic flooding has resulted in the closing of businesses and financial institutions, the temporary suspension of mail service, interruption of communication services, the temporary displacement of persons from their homes, loss of personal

belongings, and temporary loss of employment. This disruption has affected the ability of these citizens to timely pay their insurance premiums, access their insurance policies, and communicate with insurance agents and their respective insurance companies for insurance-related matters. This historic flooding has created a mass disruption to the normalcy previously enjoyed by Louisianans and produced an immediate threat to the public health, safety, and welfare of Louisiana citizens.

The commissioner will be hindered in the proper performance of his duties and responsibilities regarding this State of Emergency without the authority to suspend certain statutes in the *Louisiana Insurance Code* and the rules and regulations that implement the *Louisiana Insurance Code* including, but not limited to, cancellation, nonrenewal, reinstatement, premium payment and claim filings with regard to any and all types of insurance subject to the *Louisiana Insurance Code*.

Therefore, Emergency Rule 27 is issued and shall apply to all insurers, health maintenance organizations (HMOs), surplus lines, and any and all other entities doing business in Louisiana or regulated by the Commissioner, including any entity enumerated in Emergency Rule 27, regarding any and all types of insurance, including, but not limited to, flood insurance (not issued pursuant to the National Flood Insurance Program), homeowners insurance, life insurance, group and individual health and accident insurance, limited benefit insurance, vehicle insurance, liability insurance, workers' compensation insurance, burglary and forgery insurance, glass insurance, fidelity and surety insurance, title insurance, fire and extended coverage insurance, steam boiler and sprinkler leakage insurance, crop and livestock insurance (not issued pursuant to a USDA program), marine and transportation insurance, credit life, medical supplement insurance, credit property and casualty insurance, annuity insurance, professional and medical malpractice liability insurance, property and casualty insurance, all surplus lines insurance, self insurance funds, reciprocal insurance and any and all other insurance related entities licensed by the commissioner or doing business in Louisiana.

Emergency Rule 27 is applicable to insureds from the following parishes: Acadia, Ascension, Avoyelles, East Baton Rouge, East Feliciana, Evangeline, Iberia, Iberville, Jefferson Davis, Lafayette, Livingston, Pointe Coupee, St. Helena, St. Landry, St. Martin, St. Tammany, Tangipahoa, Vermilion, Washington, and West Feliciana, and any such parishes that have or may hereafter receive a major disaster declaration by the President of the United States or such officer acting under his authority for this historic flood event.

Emergency Rule 27 is available on the internet at www.lda.state.la.us and is available for inspection between the hours of 8 a.m. until 4:30 p.m. at the Department of Insurance, 1702 North Third Street, Baton Rouge, LA 70802.

Title 37
INSURANCE
Part XI. Rules

Chapter 49. Emergency Rule 27—Suspension of Certain Statutes Regarding Cancellations, Non-Renewals, Reinstatements, Premium Payments, Claim Filings and Related Provisions Regarding Any and All Insurance Matters Affecting Insureds in Louisiana caused by the State of Emergency Declared by the Governor on August 12, 2016, on account of Historic Flooding

§4901. Benefits, Entitlements, and Protections

A. The benefits, entitlements and protections of Emergency Rule 27 shall be applicable to insureds who, as of 12:01 a.m. on August 12, 2016 had a policy or insurance contract for any of the types of insurance enumerated in §4903, and meet one of the following criteria.

1. Any person, as defined in R.S. 22:46, who, as of August 12, 2016, resided in one of the following parishes: Acadia, Ascension, Avoyelles, East Baton Rouge, East Feliciana, Evangeline, Iberia, Iberville, Jefferson Davis, Lafayette, Livingston, Pointe Coupee, St. Helena, St. Landry, St. Martin, St. Tammany, Tangipahoa, Vermilion, Washington, and West Feliciana, and any such parishes that may receive a major disaster declaration by the President of the United States or such officer acting under his authority.

2. Nothing in Emergency Rule 27 shall preclude an insurer from voluntarily applying the provisions of Emergency Rule 27 relating to cancellation, nonrenewal and nonreinstatement to any other person who is an insured and who resides in any parish other than the parishes set forth in §4901.A.1.

AUTHORITY NOTE: Promulgated in accordance with Executive Order JBE 2016-58.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 42:

§4903. Applicability

A. Emergency Rule 27 shall apply to any and all types of insurance, including, but not limited to, flood insurance, homeowners insurance, life insurance, health and accident insurance, limited benefit insurance, vehicle insurance, liability insurance, workers' compensation insurance, burglary and forgery insurance, glass insurance, fidelity and surety insurance, title insurance, fire and extended coverage insurance, steam boiler and sprinkler leakage insurance, crop and livestock insurance, marine and transportation insurance, credit life, medical supplement insurance, credit property and casualty insurance, annuity insurance, HMOs, professional and medical malpractice liability insurance, property and casualty insurance, all surplus lines insurance, self-insurance funds, disability insurance, reciprocal insurance, long-term care insurance, short-term health insurance, stop loss insurance, excess loss insurance, Medicare supplement insurance, preferred provider

organizations, managed care organizations and any and all other insurance related entities licensed by the commissioner or doing business in Louisiana.

AUTHORITY NOTE: Promulgated in accordance with Executive Order JBE 2016-58.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 42:

§4905. Suspension of Louisiana Insurance Code Provisions

A. All cancellation, termination, nonrenewal, and nonreinstatement provisions in title 22, including, but not limited to, R.S. 22:272, 22:887, 22:977, 22:978, 22:1068, 22:1074, 22:1266, 22:1267; 22:1311, and 22:1335 are hereby suspended. Any such notice shall be null and void and have no force or effect. Furthermore, any such notice shall be reissued *de novo* to the insured in accordance with existing statutory requirements, and any such notice shall not be issued to the insured prior to September 12, 2016.

AUTHORITY NOTE: Promulgated in accordance with Executive Order JBE 2016-58.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 42:

§4907. Suspension of Cancellations or Nonrenewals

A. The commissioner hereby suspends any and all cancellations occasioned by the inability of an insured, or his representative, from complying with any policy provisions. In furtherance of this suspension, a cancellation or nonrenewal shall not occur prior to September 12, 2016, unless upon the documented written request or written concurrence of the insured.

AUTHORITY NOTE: Promulgated in accordance with Executive Order JBE 2016-58.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 42:

§4909. Insured's Obligation to Provide Information Relative to Claims

A. Emergency Rule 27 shall not relieve an insured who has a claim caused by this historic flooding, or its aftermath, from compliance with the insured's obligation to provide information and cooperate in the claim adjustment process relative to such claim.

AUTHORITY NOTE: Promulgated in accordance with Executive Order JBE 2016-58.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 42:

§4911. Suspension of Interest, Penalties, Fees, and other Charges

A. The commissioner hereby suspends the imposition of any additional interest, penalty, or other charge and declares that no interest, penalty, or other charge shall accrue or be assessed against any insured as the result of the suspensions ordered herein.

AUTHORITY NOTE: Promulgated in accordance with Executive Order JBE 2016-58.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 42:

§4913. Cancellation for Fraud or Material Representation

A. The provisions of Emergency Rule 27 shall not prevent insurers, HMOs, or any other entity doing business in Louisiana or regulated by the commissioner from cancelling or terminating an insured based solely on fraud or

material misrepresentation on the part of the insured as authorized by law or in the policy or certificate of insurance.

AUTHORITY NOTE: Promulgated in accordance with Executive Order JBE 2016-58.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 42:

§4915. Suspension of Statutory, Regulatory, or Policy Provisions

A. Any statutory or regulatory provision, or any policy provision contained in any and all policies of insurance set forth in §4903 above, shall be suspended to the extent that said statutory or regulatory provision, or policy provision, imposed upon an insured a time limit to perform any act or transmit information or funds with respect to any insurance enumerated in Section 4903 above, which act or transmittal was to have been performed on or after 12:01 a.m. on August 12, 2016. The time limit for any such performance, act or transmittal shall be suspended to September 12, 2016.

AUTHORITY NOTE: Promulgated in accordance with Executive Order JBE 2016-58.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 42:

§4917. Suspension of Cancellation, Nonrenewal, or Nonreinstatement

A. Emergency Rule 27 hereby suspends any notice of cancellation, notice of nonrenewal, nonreinstatement or any other notice related to any of the types of insurance enumerated in §4903 that was in force and effect as of 12:01 a.m. on August 12, 2016, and any such action shall be null and void and have no force or effect. Furthermore, any such notice shall be reissued *de novo* to the insured in accordance with existing statutory requirements and any such notice shall not be issued to the insured until September 12, 2016 or thereafter.

AUTHORITY NOTE: Promulgated in accordance with Executive Order JBE 2016-58.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 42:

§4919. Authority

A. The commissioner reserves the right to amend, modify, alter, or rescind all or any portion of Emergency Rule 27. Additionally, the commissioner reserves the right to extend Emergency Rule 27.

AUTHORITY NOTE: Promulgated in accordance with Executive Order JBE 2016-58.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 42:

§4921. Severability

A. If any Section or provision of Emergency Rule 27 is held invalid, such invalidity or determination shall not affect other Sections or provisions or the application of Emergency Rule 27 to any persons or circumstances that can be given effect without the invalid Sections or provisions and the application to any person or circumstance shall be severable.

AUTHORITY NOTE: Promulgated in accordance with Executive Order JBE 2016-58.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 42:

§4923. Effective Date

A. Emergency Rule 27 shall become effective at 12:01 a.m. on August 12, 2016 and shall continue in full force and effect to September 12, 2016.

AUTHORITY NOTE: Promulgated in accordance with Executive Order JBE 2016-58.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 42:

James J. Donelson
Commissioner

1609#002

DECLARATION OF EMERGENCY

Department of Treasury Deferred Compensation Commission

Administration and Distributions
(LAC 32:VII.105, 701, and 709)

The Louisiana Deferred Compensation Board has exercised the emergency provision in accordance with the Administrative Procedure Act, R.S. 49:953(B) and pursuant to the authority set forth in R.S. 42:1303, to amend LAC 32:VII.105, 701, 709 regarding distributions for unforeseen emergencies. This Emergency Rule is necessary to allow plan participants as defined by LAC 32:VII.101 who qualify for the relief provided by IRS Announcement 2016-30 to take a distribution from the plan.

The Louisiana Deferred Compensation Commission hereby finds that the following circumstances constitute an immediate danger to the public health, safety, or welfare: On August 12, 2016, pursuant to Proclamation No. 111 JBE 2016, Governor John Bel Edwards declared a State of Emergency within the State of Louisiana in response to historic flooding in Louisiana. Additionally, on August 14, 2016, the President of the United States of America issued a Major Disaster Declaration for designated parishes of Louisiana by issuing FEMA DR-4277. Over 100,000 Louisiana residents have applied to the Federal Emergency Management Agency for assistance. The Office of the Governor estimates over 60,000 houses were damaged by this historic flooding event. The damage caused by this historic flooding event has resulted in the closing of businesses in affected areas, loss of personal belongings, and loss of employment by many plan participants and/or their families. This historic flooding has produced an immediate threat to the public health, safety, and welfare of many participants in the Louisiana Deferred Compensation Plan. In order to provide relief to taxpayers who have been adversely affected by the storms and flooding that began August 11, 2016, the IRS issued Announcement 2016-30 to provide relief from certain verification procedures that may be required under retirement plans with respect to hardship distributions.

This Emergency Rule shall be effective on September 1, 2016, and shall remain effective for 120 days, unless renewed by the Louisiana Deferred Compensation Commission, or until permanent rules are promulgated in accordance with the law.

Title 32

EMPLOYEE BENEFITS

Part VII. Public Employee Deferred Compensation

Subpart 1. Deferred Compensation Plan

Chapter 1. Administration

§105. Duties of Commission

A. - A.7. ...

8. appointing an emergency committee comprised of at least three individuals. Applications for a withdrawal of deferred compensation based on an unforeseeable emergency shall be approved or disapproved by such committee:

a. a participant shall furnish medical or other evidence to the emergency committee to establish and substantiate the existence of an unforeseeable emergency. However, if a participant qualifies for a distribution arising from the Louisiana Storms, as set forth in IRS Announcement 2016-30 the commission may rely upon the representations from the participant as to the need for and amount of the distribution unless it has actual knowledge to the contrary.

b. if an application for a withdrawal based on unforeseeable emergency is approved, and the application does not qualify for the relief set forth in IRS Announcement 2016-30, the amount of the withdrawal shall be limited to the amount required to meet such emergency. Payment shall not be made to the extent such emergency is relieved:

i. - iii. ...

AUTHORITY NOTE: Promulgated in accordance with IRC §457 and R.S. 42:1301-1308.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Deferred Compensation Commission, LR 24:1963 (October 1998), amended LR 28:1495 (June 2002), amended LR 42:

Chapter 7. Distributions

§701. Conditions for Distributions

A. - A.2. ...

3. the participant incurs an approved unforeseeable emergency pursuant to LAC 32:VII.709.A or meets the qualifications for relief set forth in IRS Announcement 2016-30; or

A.4. - B. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1301-1308 and IRC §457. HISTORICAL NOTE: Promulgated by the Department of the Treasury, Deferred Compensation Commission, LR 24:1967 (October 1998), amended LR 28:1497 (June 2002), LR 32:121 (January 2006), amended LR 42:

§709. Unforeseeable Emergency

A. If a participant has incurred a genuine unforeseeable emergency and no other resources of financial relief are available, or if a participant meets the qualifications for relief set forth in IRS Announcement 2016-30 the commission may grant, in its sole discretion, a participant's request for a payment from the participant's account. Any payment made under this provision shall be in a lump sum.

1. The commission shall have the right to request and review all pertinent information necessary to assure that hardship withdrawal requests are consistent with the provisions of IRC §457 or IRS Announcement 2016-30.

2. Unless a participant meets the qualifications for relief set forth in IRS Announcement 2016-30, an unforeseeable emergency distribution shall not be made if such hardship may be relieved:

2.a. - 3.b. ...

c. If a participant meets the qualifications for relief set forth in IRS Announcement 2016-30 the commission may rely upon the representation of the participant as to the need for and amount of a financial hardship distribution unless the commission or plan administrator has actual knowledge to the contrary.

4. Payment of a financial hardship distribution shall result in mandatory suspension of deferrals for a minimum of 6 months from the date of payment (or such other period as mandated in treasury regulations) unless the participant's distribution is made pursuant to the guidelines set forth in IRS Announcement 2016-30. If a participant's financial hardship distribution is made pursuant to the guidelines set forth in IRS Announcement 2016-30, then the suspension of deferrals shall be in the discretion of the participant.

B. - B.7. ...

AUTHORITY NOTE: Promulgated in accordance with IRC §457 and R.S. 42:1301-1308.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Deferred Compensation Commission, LR 24:1968 (October 1998), amended LR 28:1498 (June 2002), LR 32:122 (January 2006), LR 37:1621 (June 2011); amended LR 42:

Emery Bares
Chairmen

1609#027

DECLARATION OF EMERGENCY

Department of Wildlife and Fisheries Wildlife and Fisheries Commission

2016/2017 Oyster Season

In accordance with the emergency provisions of the Administrative Procedure Act, Louisiana Revised Statutes (R.S.) 49:953, and under the authority of R.S. 56:433, R.S. 56:435.1, and R.S. 56:435.1.1 notice is hereby given that the Wildlife and Fisheries Commission hereby declare the 2016/2017 oyster season as follows, effective September 1, 2016.

The public oyster seed grounds and reservations, as described in R.S. 56:434, Louisiana Administrative Code (LAC) 76:VII:507, LAC 76:VII:509, LAC 76:VII.511, LAC 76:VII.513, and LAC 76:VII.517, including Lake Borgne, east of the Mississippi River and north of a line extending east from the Mississippi River Gulf Outlet at latitude 29 degrees 42 minutes 56.74 seconds N latitude and excluding Drum Bay (area defined below), Lake Mechant, Bay Junop, and the Vermilion/East and West Cote Blanche Bay/Atchafalaya Bay Public Oyster Seed Grounds shall open at one-half hour before sunrise on Wednesday, September 7, 2016. All areas, except for the Vermilion/East and West Cote Blanche Bay/Atchafalaya Bay Public Oyster Seed Grounds, shall close at one-half hour after sunset on Sunday, October 9, 2016. As per R.S. 56:433.B(1), no harvest of oysters for market sales is allowed on any public oyster area prior to the second Monday in October, which is

October 10, 2016. Therefore, any and all vessels harvesting on the open public oyster seed grounds between September 7, 2016 and October 9, 2016, both dates inclusive, shall be harvesting seed oysters for bedding purposes only and shall not have sacks or other containers typically used to hold oysters for transport to market on board the harvest vessel. Bay Junop and the public grounds east of the Mississippi River and north of a line extending east from the Mississippi River Gulf Outlet at 29 degrees 42 minutes 56.74 seconds N latitude (including the Drum Bay area defined below) shall re-open to harvest for market sales only at one-half hour before sunrise on Monday, November 14, 2016.

There will be two sacking-only areas restricted to oyster harvest for market sales only: Drum Bay and American Bay. The Drum Bay sacking-only area is that portion of the public grounds west of a line running generally north/south of a point at 29 degrees 55 minutes 39.50 seconds N latitude, 89 degrees 14 minutes 18.57 seconds W longitude to a point at 29 degrees 52 minutes 33.25 seconds N latitude, 89 degrees 14 minutes and 11.95 seconds W longitude. The Drum Bay sacking-only area shall open at one-half hour before sunrise on Monday, November 14, 2016. The American Bay sacking-only area is that portion of the public grounds within Bay Long west of a line running generally north/south from a point at 29 degrees 31 minutes 13.78 seconds N latitude, 89 degrees 34 minutes 9.79 seconds W longitude to a point at 29 degrees 29 minutes 40.67 seconds N latitude, 89 degrees 34 minutes and 8.48 seconds W longitude. The American Bay sacking-only area shall open at one-half hour before sunrise on Monday, November 14, 2016.

The Hackberry Bay Public Oyster Seed Reservation, as described in R.S. 56:434, shall open at one-half hour before sunrise on Monday, November 14, 2016. Hackberry Bay shall close to harvest of seed oysters for bedding purposes at one-half hour after sunset on Monday, November 14, 2016 but remain open for the harvest of oysters for market sales.

During the 2016/2017 open oyster season, the following provisions shall be in effect:

1. Any vessel from which any person(s) takes or attempts to take oysters from the public oyster seed grounds and reservations described above shall:

a. Be limited to a daily take and possession limit not to exceed 50 sacks of oysters per vessel. A sack of oysters for the purposes of this declaration of emergency shall be defined as the size described in R.S. 56:440. The daily take and possession limit shall not apply to vessels harvesting seed oysters for bedding purposes. The possession limit shall not apply to vessels operating under a valid Oyster Cargo Vessel Permit.

b. Be limited to either harvesting market oysters for direct sale (sacking) or harvesting seed oysters for bedding purposes on any one day and is specifically prohibited from doing both.

2. If any person on a vessel takes or attempts to take oysters from the public oyster seed grounds or reservations described above, all oysters contained on that vessel shall be deemed to have been taken from said seed ground or reservation from the time harvest begins until all oysters are off-loaded dockside.

3. Prior to leaving public seed grounds or reservations with oysters harvested from said seed ground or reservation: all oysters must be sacked, the number of sacks shall be

recorded in a log book, and each sack shall be properly tagged.

4. All vessels located in public seed grounds or reservations during those times between one-half hour after sunset and one-half hour before sunrise shall have all oyster dredges unshackled.

The following areas shall remain closed for the entire 2016/2017 oyster season:

1. The area east of the Mississippi River as described in LAC 76:VII:511, south of a line extending east from the Mississippi River Gulf Outlet at latitude 29 degrees 42 minutes 56.74 seconds N latitude, excluding the American Bay area defined above.

2. The Bay Gardene and Sister Lake Public Oyster Seed Reservations as described in R.S. 56:434.

3. The Little Lake Public Oyster Seed Grounds as described in LAC 76:VII:521.

4. The Barataria Bay, Deep Lake, Lake Chien, Lake Felicity, and Lake Tambour Public Oyster Seed Grounds as described in LAC 76:VII:517.

The Secretary of the Department of Wildlife and Fisheries is authorized to take emergency action as necessary to:

1. Close areas if oyster mortalities are occurring or to delay the season or close areas where significant spat catch has occurred with good probability of survival, or where it is found that there are excessive amounts of non-living reef material in seed oyster loads, or if oyster resources and/or reefs are being adversely impacted, or if enforcement problems are encountered; and,

2. Adjust daily take and/or possession limits as biological or enforcement data indicate a need; and,

3. Adjust sacking-only areas and/or restrict the taking of seed oysters as biological or enforcement data indicate a need.

4. Reopen an area previously closed if the threat to the resource has ended, or may open areas if substantial oyster resources are located.

Prior to any action, the Secretary shall notify the Chairman of the Wildlife and Fisheries Commission of his intention to make any or all of the changes indicated above.

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

Bart R. Yakupzack
Chairman

1609#023

DECLARATION OF EMERGENCY

Department of Wildlife and Fisheries Wildlife and Fisheries Commission

Oyster Season Delay—Public Oyster Seed Grounds
East of the Mississippi River and North of the
Mississippi River Gulf Outlet (MRGO)

In accordance with the emergency provisions of Louisiana Revised Statute (R.S.) 49:953, under the authority of R.S. 56:433, R.S. 56:435.1 and R.S. 56:435.1.1(D), and under the authority of a Declaration of Emergency passed by the

Wildlife and Fisheries Commission on September 1, 2016, notice is hereby given that the secretary of wildlife and fisheries declares that the September 7, 2016 opening of the 2016/2017 oyster season in all public oyster seed grounds east of the Mississippi River and north of the line extending east from the Mississippi River Gulf Outlet at latitude 29 degrees 42 minutes 56.74 seconds N latitude is delayed until further notice.

This oyster season delay is necessary due to extensive oyster mortality observed throughout the area and also to protect a recent spat set in order to increase the likelihood of spat survival and facilitate resource recovery. Protection of remaining oyster resource is in the long-term best interest of the public oyster seed grounds in this area.

Notice of any opening, delaying or closing of a season will be made 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.

Charles J. Melancon
Secretary

1609#022

DECLARATION OF EMERGENCY

Department of Health Bureau of Health Services Financing

Intermediate Care Facilities for Persons
with Intellectual Disabilities
Supplemental Payments
(LAC 50:VII.32917)

Editor's Note: The following Emergency Rule is being repromulgated to correct manifest typographical errors. The original Emergency Rule can be viewed in the July 2016 edition of the *Louisiana Register* on page 1010.

The Department of Health, Bureau of Health Services Financing adopts LAC 50:VII.32917 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Emergency Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:953(B)(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

The Department of Health, Bureau of Health Services Financing provides Medicaid reimbursement to non-state intermediate care facilities for persons with intellectual disabilities (ICFs/ID) for services rendered to Medicaid recipients.

The Department of Health and Hospitals, Bureau of Health Services Financing, promulgated an Emergency Rule which amended the provisions governing the reimbursement methodology for ICFs/ID in order to adopt provisions to establish supplemental Medicaid payments for services provided to Medicaid recipients residing in privately-owned facilities that enter into a cooperative endeavor agreement with the department (*Louisiana Register*, Volume 41, Number 8). The department has now determined that it is necessary to amend the provisions of the August 1, 2015 Emergency Rule to establish upper payment limits for supplemental payments to private intermediate care facilities

entering into a cooperative endeavor agreement with the department to provide a privately operated living setting to residents discharging from Pinecrest Supports and Services Center, hereafter referred to as Pinecrest. This action is being taken to secure new federal funding, and to promote the health and welfare of Medicaid recipients by ensuring sufficient provider participation.

Effective July 20, 2016, the Department of Health, Bureau of Health Services Financing amends the provisions of the August 1, 2015 Emergency Rule governing the reimbursement methodology for non-state ICFs/ID.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part VII. Long Term Care

Subpart 3. Intermediate Care Facilities for Persons with Intellectual Disabilities

Chapter 329. Reimbursement Methodology

Subchapter A. Non-State Facilities

§32917. Supplemental Payments

A. Effective for dates of service on or after August 1, 2015, monthly supplemental payments shall be made to qualifying privately-owned intermediate care facilities for persons with intellectual disabilities.

1. In order to qualify for the supplemental payment, the private entity must enter into a cooperative endeavor agreement with the department.

B. Effective for dates of service on or after August 1, 2016, monthly supplemental payments shall be made to qualifying privately-owned intermediate care facilities for persons with intellectual disabilities (ICFs/ID) to provide a privately operated living setting to residents discharging from Pinecrest Supports and Services Center.

1. In order to qualify for the supplemental payment, the private entity must enter into a cooperative endeavor agreement with the department to provide a privately

operated living setting, with an end goal of increased community placement opportunities, to residents of Pinecrest who desire to discharge and have been deemed ready for discharge by their interdisciplinary teams, and meet the admission protocol/criteria of the contracted party but have not been successful in securing a placement with a private provider.

C. Supplemental payments for services rendered to Medicaid recipients shall not exceed the facility's upper payment limit (UPL) pursuant to 42 CFR 447.272. The UPL will be based on the Centers for Medicare and Medicaid Services' approved ICF transitional rate of \$329.26 including provider fee.

D. The supplemental payment will be the difference between the actual Medicaid payment and what would have been paid if the ICF/ID was paid up to the UPL amount.

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

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 42:

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.

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 Emergency Rule. A copy of this Emergency Rule is available for review by interested parties at parish Medicaid offices.

Rebekah E. Gee MD, MPH
Secretary

1609#051

Rules

RULE

Department of Agriculture and Forestry Office of Agro-Consumer Services Agricultural Commodities Commission

Agricultural Commodity Dealer and Warehouse Law (LAC 7:XXVII.Chapter 1)

In accordance with the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Agriculture and Forestry (“department”) and the Agricultural Commodities Commission (“commission”) has amended LAC 7:XXVII.101-111, 115, 119, 123, 128 and 129, adopted §114 and repealed §§157 and 161. The Rule amends Chapter 1 by removing the language “bond” and replacing it with “security.” This is necessary because bonds are not the only type of security accepted by the commission. The rule also removes language and requirements already set forth in title 3 of the *Revised Statutes*. Section 114 is new and sets forth guidelines for the temporary storage of commodities. Finally, §128 adds a new service of vomitoxin testing and an associated fee.

Title 7

AGRICULTURE AND ANIMALS

Part XXVII. Agricultural Commodity Dealer and Warehouse Law

Chapter 1. Louisiana Agricultural Commodities Commission

Subchapter A. General Provisions

§101. Definitions

Adjudicatory Proceeding—an open public hearing by the commission to determine whether violations of R.S. 3:3401-3425 or the regulations contained in this Part have occurred. Such proceedings are conducted in accordance with the Administrative Procedure Act (R.S. 49:950 et seq.).

* * *

Scale Ticket—the document issued to a producer when agricultural commodities are delivered to a warehouse or grain dealer.

Security—any financial instrument or document issued for the benefit of or given to the commission by a licensee or participant in any self-insurance fund program authorized by R.S. 3:3402 et seq., as assurance for the fulfillment of the obligations imposed on the licensee by applicable law or regulations.

Spot or Spot Sale—a transaction where title to agricultural commodities passes from the producer to the buyer on the day of delivery, in which transaction the producer is paid promptly at the market price established on the day of delivery.

Storage—the physical possession by a warehouse, in any manner and/or under any type of fee arrangement, of agricultural commodities belonging to any person other than the owner of the warehouse. The term *storage* does not apply to a transaction in which title passes from the seller to the buyer upon delivery.

Temporary Storage—storage of a commodity for a temporary period of time in a space approved by the commission which does not meet standard requirements for conventional storage.

Warehouse—any building, structure, or any other protected enclosure required to be licensed by the commission in which agricultural commodities or farm products are stored for the public for a fee. The term includes facilities which commingle commodities belonging to different owners and facilities which preserve the separate identities of different lots of agricultural commodities.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3402 and R.S. 3:3405.

HISTORICAL NOTE: Promulgated by the Department of Agricultural, Office of Agro-Consumer Services, Agricultural Commodities Commission, LR 9:284 (May 1983), amended by the Department of Agriculture and Forestry, Office of Agro-Consumer Services, Agricultural Commodities Commission, LR 12:287 (May 1986), LR 19:1300 (October 1993), amended by the Department of Agriculture and Forestry, Office of the Commissioner, LR 24:624 (April 1998), amended by the Department of Agriculture and Forestry, Agricultural Commodities Commission, LR 37:494 (February 2011), amended by the Department of Agriculture and Forestry, Office of Agro-Consumer Services, Agricultural Commodities Commission, LR 42:1498 (September 2016).

§103. Administration of the Affairs of the Commission

A. The officers of the commission shall be a chairman and a vice-chairman, who shall serve for terms concurrent with the commissioner, but may be elected for an indefinite number of terms.

B. After the initial election of officers, the chairman and vice-chairman shall be elected at the commission's regular meeting during the first quarter of each year.

C. In the absence of the chairman at any meeting of the commission, the vice-chairman shall preside.

D. The commission shall hold at least one regular meeting during each quarter of the year, but may meet more frequently upon the call of the chairman.

E. Meetings of the commission shall normally be held in its domicile but may be held at other locations upon the determination of the chairman or the will of the commission.

F. There shall be no voting by proxy.

G. The chairman shall designate a hearing officer, who may or may not be a member of the commission, to preside at all adjudicatory proceedings of the commission. The chairman may, if he so desires, serve as hearing officer at any adjudicatory proceeding.

H. The commission shall serve as the hearing body in all adjudicatory proceedings and shall make the final determination with regard to the disposition of all matters coming to adjudication.

I. The director shall provide clerical and other support services as may be required by the commission and shall maintain and distribute appropriate minute records of the commission.

J. No member of the commission shall participate in any discussion or vote concerning any matter before the

commission in which such member has a personal or commercial interest.

K. No member of the commission or the staff shall disclose any financial information pertaining to any licensee or applicant for license.

L. The commission may, from time to time, delegate any of its responsibilities to subcommittees appointed by the chairman. Such subcommittees may perform such specific duties as may be assigned by the chairman but all actions of such subcommittees shall be subject to ratification by the full commission.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3405.

HISTORICAL NOTE: Promulgated by the Department of Agricultural, Agricultural Commodities Commission, LR 9:287 (May 1983), amended 12:287 (May 1986), amended by the Department of Agriculture and Forestry, Office of the Commissioner, LR 24:624 (April 1998), amended by the Department of Agriculture and Forestry, Agricultural Commodities Commission, LR 37:494 (February 2011), amended by the Department of Agriculture and Forestry, Office of Agro-Consumer Services, Agricultural Commodities Commission, LR 42:1498 (September 2016).

Subchapter B. Application for Warehouse, Grain Dealer and Cotton Merchant Licenses

§107. Application for License (Initial and Renewal); Time for Filing; Contents; Fees; Style of Document

A. Applications for renewal of warehouse, cotton merchant and grain dealer licenses shall be received no later than April 30 of each year. Applications for initial license may be filed at any time during the year. For both initial and renewal licenses, the following information shall be furnished on the application form provided by the commission:

1. - 14.e. ...

15. security status of the applicant:

a. amount of security posted;

b. name and address of issuing company providing the security;

c. period for which the security is written;

16. - 24. ...

B. - C.

D. Each applicant shall also provide the following information, in addition to completing the required application form and providing a financial statement:

1. evidence of security which meets the requirements set forth in §115 of this Part (warehouse license applicants), §123.G of this Part (grain dealer license applicants) or R.S. 3:3411.1 (cotton merchant license applicants);

2. evidence of provisional stock insurance which meets the requirements set forth in §117 of this Part (warehouses) or §123 of this Part (grain dealers);

3. copy of scale ticket. Applicants who do not use scale tickets in their business operations shall certify to that effect in lieu of filing a scale ticket;

4. applicants who apply under corporate status shall provide evidence of compliance with Louisiana's corporation laws.

E. ...

F. All licenses shall signify on the face the following information:

1. name and address of licensee;

2. if a cotton merchant or grain dealer, the location of the principal place of business;

3. if a warehouse, the licensed capacity of the location covered by the license;

4. amount of security;

5. term of license.

G. - H. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3405, R.S. 3:3408, R.S. 3:3409, R.S. 3:3410, R.S. 3:3411 and R.S. 3:3411.1.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Office of Agro-Consumer Services, Agricultural Commodities Commission, LR 9:289 (May 1983), amended LR 10:75 (February 1984), LR 11:229 (March 1985), amended by the Department of Agriculture and Forestry, Office of Agro-Consumer Services, Agricultural Commodities Commission, LR 12:287 (May 1986), LR 19:1300 (October 1993), amended by the Department of Agriculture and Forestry, Office of the Commissioner, LR 24:624 (April 1998), amended by the Department of Agriculture and Forestry, Agricultural Commodities Commission, LR 37:497 (February 2011), amended by the Department of Agriculture and Forestry, Office of Agro-Consumer Services, Agricultural Commodities Commission, LR 42:1499 (September 2016).

§109. Grounds for Refusal to Issue or Renew a Warehouse, Cotton Merchant, or Grain Dealer License

A. - A.4. ...

5. the applicant has not or cannot provide the security required by R.S. 3:3401-3425;

A.6. - B. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3405 and R.S. 3:3412.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Office of Agro-Consumer Services, Agricultural Commodities Commission, LR 9:293 (May 1983), amended by the Department of Agriculture and Forestry, Office of Agro-Consumer Services, Agricultural Commodities Commission, LR 12:287 (May 1986), amended by the Department of Agriculture and Forestry, Office of the Commissioner, LR 24:625 (April 1998), amended by the Department of Agriculture and Forestry, Agricultural Commodities Commission, LR 37:499 (February 2011), amended by the Department of Agriculture and Forestry, Office of Agro-Consumer Services, Agricultural Commodities Commission, LR 42:1499 (September 2016).

Subchapter C. Warehouse Licenses

§111. Requirements Applicable to All Warehouses

A. - I. ...

J. The warehouse shall meet all security and insurance requirements set forth in §§115 and 117 of this Part prior to issuance of the license. Failure to maintain the required security and insurance in full force and effect for the license period shall subject the licensee to revocation of its license.

K. - M. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3405, R.S. 3:3409, R.S. 3:3410 and R.S. 3:3420.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Office of Agro-Consumer Services, Agricultural Commodities Commission, LR 9:294 (May 1983), amended LR 11:229 (March 1985), amended by the Department of Agriculture and Forestry, Office of Agro-Consumer Services, Agricultural Commodities Commission, LR 19:1301 (October 1993), amended by the Department of Agriculture and Forestry, Agricultural Commodities Commission, LR 37:499 (February 2011), amended by the Department of Agriculture and Forestry, Office of Agro-Consumer Services, Agricultural Commodities Commission, LR 42:1499 (September 2016).

§114. Temporary Storage Facilities

A. Temporary storage facilities may be approved by the commission on a case by case basis. Temporary storage may only be operated in conjunction with an existing, licensed warehouse and the capacity to be approved shall be compatible with the warehouseman's operational and financial capabilities.

B. A warehouseman who desires to store commodities in temporary storage shall make written application to the commission for approval of temporary storage prior to placing any commodity in temporary storage. The warehouseman shall advise the commission of his intent to use temporary storage, with an application indicating location, construction, quantity to be stored and estimated time of storage.

C. Application for approval of temporary storage shall be made only after completion of the temporary storage structure. All temporary storage structures approved by the commission must comply with each of the following.

1. Rigid, self-supporting sidewalls shall be used.
2. An asphalt or concrete floor or other suitable hard surface shall be used to preserve the quality and quantity of commodities.
3. Proper covering shall be provided which shall preclude exposure of the commodities to normal exposure of all weather conditions.
4. The space shall have necessary equipment such as a leg, conveyers, portable augers, or vaculators for handling, receiving, and loading out of the commodities. All storage units shall have either empty storage space to turn and condition the commodities or be equipped with proper ventilation such as air ducts and ventilation fans to keep the commodities from going out of condition.
5. The space shall be immobile.

D. Any warehouseman approved to use temporary storage must comply with all of the following:

1. meet inspection, security, net worth and insurance requirements required for a conventional warehouse license;
2. maintain a separate record of total commodities stored in temporary space in addition to accounting for the commodities in the daily position record;
3. make the space intended for use as temporary storage accessible for examination by the commission, the department, or their designees.

a. If ready access for inspection purposes is not available to the temporary structure, the warehouseman at the examiner's discretion shall remove the covering or any part of it as required by the examiner to determine quality, condition, and quantity of the commodities in storage.

b. If the warehouseman and the examiner are not in agreement as to the quality of the commodities, the examiner with the assistance of the warehouseman shall take samples of the mass, agreeable to both, and submit at the warehouseman's expense to the nearest GIPSA or GIPSA-designated or delegated office for grading.

c. The examiner shall issue written notice to the warehouseman for any temporary storage facility which no longer meets requirements. Failure of the warehouseman to place the facility in a suitable condition within a reasonable length of time shall result in the facility being eliminated from coverage from the warehouse approval.

E. All commodities shall be removed from temporary storage by the following June 1, except as provided in this Subsection. Failure to remove commodities by June 1 shall constitute a violation of this Part unless an extension is granted as provided in this Subsection.

1. A warehouseman may continue to store commodities in temporary facilities beyond June 1, provided:

a. application to continue use of temporary storage shall be made in writing by the warehouseman by May 1 or 30 days before the expiration of any extension. The commission or its designee shall inspect the temporary storage facility prior to granting the extension;

i. based on a visual examination of the temporary structure and observation of the commodities for quantity and quality, the examiner shall report to the commission his findings and recommendation regarding continued approval and/or detailing problems that shall be considered before an extension is granted. Adverse conditions shall be reported by telephone to the commission within 24 hours and in writing within 3 business days;

b. the time granted on any extension shall not exceed 6 months;

c. any approved extension shall be in writing, provide the date the extension shall end and be signed by the warehouseman.

2. If the warehouse chooses to continue using the temporary storage for company-owned commodities after June 1, the warehouse operator shall:

a. remove that quantity of the commodity from the warehouse's official records;

b. not use the commodity to cover the storage or warehouse receipted obligations of the warehouse; and

c. agree that the quantity will not be included in any warehouse examination conducted by CCC.

F. The licensing of a temporary storage space in no way relieves the warehouseman of any other obligations for warehousemen set forth in R.S. 3:3401 et seq., or LAC 7:XXVII.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3405 and R.S. 3:3409.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Office of Agro-Consumer Services, Agricultural Commodities Commission, LR 42:1500 (September 2016).

§115. Security Required for Warehouse License; Provisions Relative to Licensed Capacities

A. Each applicant shall execute and file security, on forms provided by the commission, which security shall be issued by a company authorized to do business in Louisiana prior to issuance of the license.

B. The security shall be conditioned upon:

1. the faithful performance of all duties and obligations to patrons of the warehouse; and

2. compliance with all requirements of R.S. 3:3401-3425 and the regulations contained in this Part.

C. The amount of the security shall be established on the basis of the capacity of the warehouse to be licensed.

1. The commission shall establish capacity records for all licensed facilities. Whenever there is a discrepancy between the capacity claimed by the applicant and the commission's capacity figures for the applicant, the security to be required shall be determined by the commission's

capacity figures. A licensee may, however, appeal the decision of the commission whenever it disagrees with the capacity figures established by the commission for its facility.

2. All facilities which commingle agricultural commodities shall secure 100 percent of their available capacity, subject to the exemptions contained in §115.C.5 and 6 of this Part.

3. Facilities which store identity-preserved commodities may, with the prior approval of the commission, secure 75 percent of their available capacity. In such event, the amount of the security shall be increased if commodities in storage exceed the licensed capacity.

4. All capacity under one roof shall be secured.

5. Outside tanks which are used solely for storage of company-owned commodities are not required to be secured.

6. Buildings which are used solely for storage of company-owned commodities are not required to be secured.

D. The amount of the security shall be as follows:

1. \$0.20 per bushel for the first 1,000,000 bushels of licensed capacity—up to \$200,000 for a licensed capacity of 2,000,000 bushels;

2. plus \$0.15 per bushel for the second 1,000,000 bushels of licensed capacity, a total of \$350,000 for a facility with a licensed capacity of 2,000,000 bushels;

3. plus \$0.10 per bushel for all bushels over 2,000,000 bushels up to 3,500,000 million bushels of licensed capacity, a maximum of an additional \$150,000.

E. The amount of security shall not be less than \$25,000 for all facilities of 125,000 bushels or less licensed capacity.

F. Maximum security of \$500,000 is required for all facilities of 3,500,000 or more bushels of licensed capacity.

G. All security shall be written for a period of one year, beginning on July 1, or for such other period of time as the commission may require.

H. All security shall provide for at least 90 days written notice to the commission prior to cancellation.

I. All security is subject to final approval by the commission and shall be so approved prior to issuance of the license.

J. Provisions for Security

1. The commission may accept security in an amount equal to 100 percent of the required security.

2. Security may be offered only by:

a. pledging of certificates of deposit;

b. filing of an irrevocable letter of credit, which shall be non-cancelable for a period of one year;

c. securing a first mortgage on immovable property which is located in Louisiana and which has an appraised value of at least 150 percent of the amount of the security. The appraisal shall be made by an independent appraiser jointly designated by the commission and the applicant. The applicant shall provide a title insurance policy issued by a company authorized to do business in Louisiana in the amount of the required security with the commission being an insured under the policy. The applicant shall pay all fees involved in providing such security;

d. a bond.

3. Security is subject to the approval of the commission. Approval is required prior to issuance of a license.

4. All security instruments shall be assigned to the commission and maintained in the commission's office in Baton Rouge. Holders of certificates of deposit will continue to draw the interest thereon.

5. Whenever any warehouse ceases to operate as a licensed warehouse, the security shall be retained by the commission:

a. until public notice, as herein required, is made; and

b. until completion of a final audit, which final audit shall be completed in not more than 120 days. Public notice of the commission's intent to release the security shall be made by publication in a newspaper of general circulation in the area where the licensee is located, as follows:

i. if there is a daily newspaper in the area, such notice shall be published at least three times, beginning at least 15 days prior to the date on which the commission will release the security;

ii. if there is no daily newspaper in the area, such notice shall be published in a weekly newspaper and shall be published once each week for the three weeks preceding the date on which the commission will release the security.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3405 and 3:3410.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Office of Agro-Consumer Services, Agricultural Commodities Commission, LR 9:297 (May 1983), amended LR 10:75 (February 1984), amended by the Department of Agriculture and Forestry, Office of Agro-Consumer Services, Agricultural Commodities Commission, LR 19:1301 (October 1993), amended by the Department of Agriculture and Forestry, Agricultural Commodities Commission, LR 37:500 (February 2011), amended by the Department of Agriculture and Forestry, Office of Agro-Consumer Services, Agricultural Commodities Commission, LR 42:1500 (September 2016).

§119. Amendment to License Required When Change of Status Occurs

A. - C.4. ...

D. Whenever the licensed capacity of a facility changes, the security required under §115 of this Part shall be changed within 45 days to conform to the new capacity. Failure to amend the security as required herein will subject the licensee to revocation of its license.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3405 and R.S. 3:3410.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Office of Agro-Consumer Services, Agricultural Commodities Commission, LR 9:299 (May 1983), amended by the Department of Agriculture and Forestry, Office of Agro-Consumer Services, Agricultural Commodities Commission, LR 19:1301 (October 1993), amended by the Department of Agriculture and Forestry, Agricultural Commodities Commission, LR 37:501 (February 2011), amended by the Department of Agriculture and Forestry, Office of Agro-Consumer Services, Agricultural Commodities Commission, LR 42:1501 (September 2016).

Subchapter D. Grain Dealers

§123. Requirements Applicable to All Grain Dealers

A. - F. ...

G. The applicant shall execute and file security, on forms provided by the commission, which is written by a company authorized to do business in Louisiana. The security shall be in an amount of \$50,000 and shall provide for 90 days written notice to the commission prior to cancellation. The security shall be conditioned upon:

1. the faithful performance of all duties and obligations to producers; and

2. compliance with all requirements of R.S. 3:3401-3425 and the regulations contained in this Part. The security is subject to the approval of the commission and shall be so approved prior to issuance of the license. Failure to keep the security in full force and effect shall subject the grain dealer to suspension or revocation of its license.

H. Security Required

1. Security may be offered only by:

a. pledging of certificates of deposit or other similar negotiable instruments; or

b. filing of an irrevocable letter of credit, which shall be non-cancelable for a period of one year; or

c. securing a first mortgage on immovable property which is located in Louisiana and which has an appraised value of at least 150 percent of the amount of the bond. The appraisal shall be made by an independent appraiser jointly designated by the commission and the applicant. The applicant shall provide a title insurance policy issued by a company authorized to do business in Louisiana in the amount of the required bond with the commission being an insured under the policy. The applicant shall pay all fees involved in providing such security; or

d. a bond.

2. All security instruments shall be assigned to the commission and will be maintained in the commission's office in Baton Rouge. Holders of certificates of deposit will continue to draw interest thereon.

3. Whenever any grain dealer ceases to operate as a licensed grain dealer, security shall be retained by the commission:

a. until public notice, as herein required, is made; and

b. until completion of a final audit, which final audit shall be completed in not more than 120 days. Public notice of the commission's intent to release the security shall be made by publication in a newspaper of general circulation in the area where the licensee is located as follows:

i. if there is a daily newspaper in the area, such notice shall be published at least three times, beginning at least 15 days prior to the date on which the commission will release the security;

ii. if there is no daily newspaper in the area, such notice shall be published in a weekly newspaper and shall be published once each week for the three weeks preceding the date on which the commission will release the security.

4. Security is subject to the approval of the commission and shall be approved prior to issuance of the license.

I. The applicant shall demonstrate a net worth which is reasonably sufficient to assure its ability to meet its obligations to producers. The commission shall be the final judge of the sufficiency of each applicant's net worth.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3405 and R.S. 3:3411.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Agricultural Commodities Commission, LR 9:301 (May 1983), amended LR 10:75 (February 1984), LR 12:287 (May 1986), LR 35:2311 (November 2009), amended by the Department of Agriculture and Forestry, Agricultural Commodities Commission, LR 37:502 (February 2011), amended by the Department of Agriculture and Forestry, Office of Agro-Consumer

Services, Agricultural Commodities Commission, LR 42:1501 (September 2016).

Subchapter E. Assessments and Fees

§128. Fees: Amount, Time of Payment

A. - C.3. ...

4. Official Services (including sampling except as indicated)

Online D/T sampling inspection service (sampling, grading and certification), per regular hour	\$26
Overtime hourly rate, per hour	\$39
Unit Inspection Fees:	
Aflatoxin Testing, per sample	\$30
Rail Car, per car	\$20.50
Truck/Trailer, per carrier	\$10
Barge, per 1,000 bushels	\$2.60
Submitted sample inspection	\$12.30
Rail Car (per sample)	\$10.30
Truck/Trailer (per sample)	\$5.30
Barge (per sample)	\$25.30
Factor only determination, per factor (not to exceed full grade fee)	\$5.20
Probe Sampling Barge (per barge)	\$100
On-Line Sampling Barge (per hour)	\$20
Vomitoxin test (applicant supplies kit)	\$25
Vomitoxin test (LDAF supplies kit)	\$35

D. - D.7. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3405, R.S. 3:3414.3 and R.S. 3:3422.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Office of Agro-Consumer Services, Agricultural Commodities Commission, LR 12:287 (May 1986), amended LR 14:528 (August 1988), LR 19:889 (July 1993), LR 23:196 (February 1997), LR 27:815 (June 2001), amended by the Department of Agriculture and Forestry, Office of the Commissioner, Agricultural Commodities Commission, LR 30:197 (February 2004), amended by the Department of Agriculture and Forestry, Agricultural Commodities Commission, LR 37:504 (February 2011), amended by the Department of Agriculture and Forestry, Office of Agro-Consumer Services, Agricultural Commodities Commission, LR 42:1502 (September 2016).

Subchapter F. Scale Tickets

§129. Scale Tickets: Filing, Contents, Maintenance in Records

A. Immediately upon deposit with a licensed warehouse or a licensed grain dealer of any agricultural commodity or farm product regulated under R.S. 3:3401-3425, the warehouse or grain dealer shall issue a scale ticket to the depositor which conforms to the requirements of this Rule. Warehouses licensed under the U.S. Warehouse Act may use scale tickets approved by the federal licensing agency.

B. Scale tickets shall be sequentially pre-numbered and shall be issued to depositors in numerical order. Different scale ticket books may be used for different scales.

C. Each scale ticket shall consist of an original and at least one copy. The original or a copy of the scale ticket shall be maintained in numerical order in the licensee's records and shall be available for examination by the commission at all times.

D. Whenever a scale ticket is voided, all copies shall be so marked, dated, and signed by an authorized agent of the warehouse or grain dealer, and all copies of the voided scale ticket shall be maintained in the warehouse or grain dealer's records.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3405, R.S. 3:3415, and R.S. 3:3419.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Agricultural Commodities Commission, LR 9:304 (May 1983), amended by the Department of Agriculture and Forestry, Agricultural Commodities Commission, LR 37:504 (February 2011), amended by the Department of Agriculture and Forestry, Office of Agro-Consumer Services, Agricultural Commodities Commission, LR 42:1502 (September 2016).

Subchapter M. Schedule of Inspections; Voluntary Inspection

§157. Prompt Payment for Rice

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3414.2 and R.S. 3:3405.

HISTORICAL NOTE: Promulgated the Department of Agriculture, Office of Agro-Consumer Services, Agricultural Commodities Commission, LR 12:288 (May 1986), repealed by the Department of Agriculture and Forestry, Office of Agro-Consumer Services, Agricultural Commodities Commission, LR 42:1503 (September 2016).

§161. Agricultural Commodities Commission; Self-Insurance Fund

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3405.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agro-Consumer Services, Agricultural Commodities Commission, LR 19:1303 (October 1993), repealed LR 42:1503 (September 2016).

Mike Strain, DVM
Commissioner

1609#072

RULE

Department of Agriculture and Forestry Office of Forestry

Indian Creek Recreation Area (LAC 7:XXXIX.Chapter 5)

In accordance with the Administrative Procedure Act, R.S. 49:950 et seq., and through authority granted in accordance with Act 591 of 1970 and R.S. 3:4402, the Department of Agriculture and Forestry (“department”), through the Office of Forestry, has repealed LAC 7:XXXIX.501 and adopted LAC 7:XXXIX.501-543 in order to establish regulations for the use of the Indian Creek Recreation Area. The rules also set forth the fees for use of the Indian Creek Recreation Area.

Title 7

AGRICULTURE AND ANIMALS

Part XXXIX. Forestry

Chapter 5. Indian Creek Recreation Area

§501. General Authority and Purpose

A. The following rules and regulations, procedures and fees replace, supersede and cancel all rules and regulations, procedures and fees adopted by the Department of Agriculture and Forestry prior to the effective date of these rules.

B. These rules and regulations are designed to provide the proper atmosphere for the enjoyment and protection of facilities and the safety of visitors.

AUTHORITY NOTE: Promulgated in accordance with Act 591 of 1970 and R.S. 3:4402.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Forestry, LR 42:1503 (September 2016).

§503. Park Property and Environment

A. The provisions of the *Louisiana Criminal Code* (R.S. 14:1 et seq.) shall be enforced at the Indian Creek Recreation Area.

B. No person shall intentionally remove, damage, disturb, or destroy any Indian Creek Recreation Area property or the property of another person, without the consent of the owner. “Property” shall include but is not limited to structures, watercraft, movables, signs, markers, natural features, cultural features, wildlife, and plants.

C. No person shall cut, destroy, or damage timber on any site, except as necessary to meet established management criteria, including insect control, public safety, and approved park construction. No timber cutting or removal may occur without the prior written permission of the commissioner of Agriculture and Forestry or his designee.

D. No building, structure, or other feature of any site may be altered, erected, or constructed without written consent of the commissioner of Agriculture and Forestry or his designee.

E. Smoking is prohibited in all enclosed structures.

F. No person shall excavate, remove, damage, or otherwise alter or deface any cultural or archaeological resource located on any site.

G. No person shall plant material or otherwise introduce plant material on any site without the written approval of the commissioner of Agriculture and Forestry or his designee.

AUTHORITY NOTE: Promulgated in accordance with Act 591 of 1970 and R.S. 3:4402.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Forestry, LR 42:1503 (September 2016).

§505. Vehicle Use

A. The provisions of the Louisiana Highway Regulatory Act (R.S. 32:1 et seq.) and any rules and regulations promulgated thereunder shall be enforced at the Indian Creek Recreational Area property.

B. Automobiles, trucks, motorcycles, bicycles, recreation vehicles, golf carts or any other wheeled vehicles must be operated only on those roads, lanes, or byways designated for vehicular traffic unless otherwise authorized by the site manager.

C. Vehicles, including recreational vehicles, motorcycles, golf carts and boat trailers, shall be parked only in designated parking areas unless otherwise authorized by the site manager.

D. No motor vehicle shall be operated without being properly licensed by the appropriate regulatory agencies. However, persons with mobility disabilities may use single-passenger, wheeled devices powered by electric motors wherever pedestrians are allowed.

E. No person shall clean, service and/or repair any vehicle on Indian Creek Recreational Area property except in emergency situations.

F. Vehicles will be considered abandoned if left unattended for more than three consecutive days unless the proper permit or advanced written approval is granted by the site manager.

G. No person shall move or remove any barrier to gain access to a restricted area.

AUTHORITY NOTE: Promulgated in accordance with Act 591 of 1970 and R.S. 3:4402.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Forestry, LR 42:1503 (September 2016).

§507. Watercraft

A. Federal, state, and local laws, rules and ordinances related to the use of watercraft shall be enforced. All watercraft located on or adjacent to any site must be operated in a careful and reasonable manner, and such operation is subject to the rules of safety imposed by the laws of Louisiana.

B. Every owner and operator of a motor boat, vessel or other watercraft shall comply with all flotation device requirements prescribed by state and federal law.

C. Boats shall be launched only from designated boat ramps or launching areas within a site.

D. A person renting a boat must return the boat to the original docking location after use, and secure the boat from unauthorized use. All paddles and life jackets shall be returned to the front office before closure.

E. No boat may be operated in a designated swimming area or in any other area designated as a non-boating area by signs or any area otherwise restricted from boat operation or docking.

F. Boats left docked and unattended must be properly secured in designated areas only. The Department of Agriculture and Forestry will not be responsible for any loss, theft or damage to boats, equipment, personal property or supplies left unattended.

G. Boats will be considered abandoned if left unattended for more than three consecutive days unless the proper permit or advanced written approval is granted by the site manager.

H. Water bodies or portions thereof adjacent to boat ramps, docks, swimming areas, boathouses, cabins, picnic pavilions, or other facilities shall be designated "no wake areas." Signs and/or buoys will mark the areas so designated. Violations of "no wake areas" shall be subject to citations.

AUTHORITY NOTE: Promulgated in accordance with Act 591 of 1970 and R.S. 3:4402.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Forestry, LR 42:1504 (September 2016).

§509. Livestock, Animals and Pets

A. Any pet brought on Indian Creek Reservation Area property must be current in vaccinations, shall have proof of rabies vaccination, and must be leashed, caged or crated. Leashes shall not exceed 6 feet in length. With the exception of service dogs, pets are not permitted within buildings or other enclosed structures on site, nor are they allowed near designated swimming areas and in overnight facilities. Owners of pets shall be fully responsible for any injury and/or damage caused by their pet.

B. No person shall allow livestock to run or graze on any site, except as part of special programs or events approved in advance by the site manager.

AUTHORITY NOTE: Promulgated in accordance with Act 591 of 1970 and R.S. 3:4402.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Forestry, LR 42:1504 (September 2016).

§511. Litter, Sanitation and Health

A. All litter disposed of on site, shall be placed into a proper litter receptacle in such a manner that the litter is prevented from being carried away or deposited by the elements upon Indian Creek Recreation Area property or water bodies. *Disposal* means to throw, discard, place, deposit, discharge, dump, drop, eject, or allow the escape of a substance.

B. No person shall drain or dump refuse waste including grey water from any trailer or other vehicle except in places or receptacles provided for such uses.

C. No person shall clean fish or other food, or wash clothing or articles of household use except in designated areas. No person shall clean or field dress any harvested animal or animals on Indian Creek Recreation Area property.

D. No person shall discharge or allow to be discharged into any waters of the state any waste or substance of any kind that will tend to cause pollution of water used for human consumption or swimming.

E. All deposits of bodily wastes into or on any portion of a comfort station or other public structure must be made in receptacles provided for that purpose. No person shall deposit any bottles, cans, cloth, rags, metal, wood, stone, or any other non-approved substance into any of the fixtures in such stations or structures.

F. No person shall use refuse containers or other refuse facilities for dumping household or commercial garbage or trash brought to a site.

G. No person shall bury or burn garbage, litter or dead animals on Indian Creek Recreation Area property.

AUTHORITY NOTE: Promulgated in accordance with Act 591 of 1970 and R.S. 3:4402.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Forestry, LR 42:1504 (September 2016).

§513. Fires

A. Fires shall be built only in places specifically designated for that purpose by the site manager.

B. Burn bans declared by a local governing authority shall be observed at the parks within the jurisdiction of the local governing authority.

AUTHORITY NOTE: Promulgated in accordance with Act 591 of 1970 and R.S. 3:4402.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Forestry, LR 42:1504 (September 2016).

§515. Fishing, Hunting, Trapping, and the Use of Firearms or Fireworks

A. All wildlife in Indian Creek Recreational Area sites, including reptiles and amphibians, is under strict protection and must not be hunted, molested, disturbed, destroyed, fed or removed, except for scientific or management purposes when approved by the commissioner of Agriculture and Forestry or his designee.

B. Bringing or keeping any hunting dogs on Indian Creek Recreation Area property for the purpose of hunting inside or adjacent to Indian Creek Recreation Area is prohibited.

C. A person who lawfully possesses a firearm may possess or transport such firearm within the boundaries of Indian Creek Recreation Area.

D. No person shall possess, shoot, discharge or explode or cause to be shot, discharged, or exploded any fireworks or

other explosives on Indian Creek Recreation Area property without prior written consent of the site manager.

E. A person fishing on Indian Creek Recreation Area property must adhere to all state and federal laws and criteria regarding fresh water fishing. The taking of fish by nets, traps or any means other than hook or line is prohibited.

F. Weapon-like toys (paintball maker, airsoft, etc.) that use compressed air or gases from any cartridge, canister or bottle and/or battery power to fire a projectile are prohibited from use at Indian Creek Recreation Area sites properties without prior written approval of the site manager.

AUTHORITY NOTE: Promulgated in accordance with Act 591 of 1970 and R.S. 3:4402.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Forestry, LR 42:1504 (September 2016).

§517. Swimming

A. Swimming is permitted only in designated areas, and at the swimmer's own risk. No lifeguards will be on duty.

B. All children under 12 years of age must be accompanied by an adult at any swimming area.

C. The capacity of the beach areas is determined, regulated and enforced by the site manager.

D. Glass containers of any kind are prohibited within any perimeter boundaries of enclosed beach and swimming areas, water playgrounds and beach parks.

E. Swimming is prohibited between sunset and sunrise.

F. Proper swimming attire, as determined by the site manager or his designee, is required for those entering the water at all swimming areas and water playgrounds.

AUTHORITY NOTE: Promulgated in accordance with Act 591 of 1970 and R.S. 3:4402.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Forestry, LR 42:1505 (September 2016).

§519. Amplified Sound Equipment

A. No person shall play amplified musical instruments except when approved by the site manager.

B. No person shall play non-amplified musical instruments, radios, televisions, tape players and similar equipment in a manner that disturbs other visitors.

C. No person shall use any public address system, whether fixed, portable, or vehicle-mounted, without prior approval of the site manager.

D. Remote public broadcast activities must be approved by the site manager.

AUTHORITY NOTE: Promulgated in accordance with Act 591 of 1970 and R.S. 3:4402.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Forestry, LR 42:1505 (September 2016).

§521. Disorderly Conduct

A. Disorderly or boisterous conduct is forbidden.

B. The site manager and his designees are authorized to control the use and consumption of alcoholic beverages at a site. This includes the authority to prohibit the consumption of alcohol in designated areas within a site. The lawful consumption of alcoholic beverages may be allowed to the extent that such activity does not adversely affect the use and enjoyment of the site by other site users.

C. No person shall publicly display on his vehicle, campsite, clothing, person or otherwise:

1. any word or words, image, graphic or depiction that is obscene (as defined by R.S. 14:106);

2. denigrates any ethnic, racial, religious or minority group; or

3. promotes violence or illegal activity.

AUTHORITY NOTE: Promulgated in accordance with Act 591 of 1970 and R.S. 3:4402.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Forestry, LR 42:1505 (September 2016).

§523. Business Activities

A. No person may sell or offer for sale any merchandise or service without the written consent of the site manager.

B. No person may distribute, post, place, or erect any advertising device without the written consent of the site manager.

AUTHORITY NOTE: Promulgated in accordance with Act 591 of 1970 and R.S. 3:4402.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Forestry, LR 42:1505 (September 2016).

§525. Enforcement

A. Persons violating these rules and regulations are subject to administrative sanctions to include fines for each violation, eviction from the site, and/or restitution to the department for damages incurred. If a person is delinquent in paying for damage incurred, the department reserves the right to refuse privileges to that person pending receipt of such restitution.

B. No person shall enter a site:

1. when the site is closed; or
2. without proper registration.

C. Site visitors may be required to furnish specific information upon registration, including but not limited to, vehicle license plate number and a driver's license number.

AUTHORITY NOTE: Promulgated in accordance with Act 591 of 1970 and R.S. 3:4402.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Forestry, LR 42:1505 (September 2016).

§527. Overnight Use

A. General Provisions

1. Any use of a site requires a written permit or payment receipt. Proof of payment shall be presented to a department employee upon request.

2. Permittee may not transfer or assign any use permit nor sublet any facility or part thereof.

3. The site manager has the authority to require the registration of every person occupying a campsite or overnight facility.

4. Any permit may be terminated by the site manager upon the violation of any established rule, regulation, or any condition of the permit.

5. Lock combinations on entrance gates are issued for the personal use of the permittee, who is prohibited from allowing others to use the lock combination, or otherwise making the facilities open so that others not covered by the permit may enter or leave the facility or area.

6. Established time schedules (check-in and check-out) are strictly enforced. Failure to comply without advanced approval of the site manager may result in additional charges and denial of any future use of the facility.

7. Overnight users must maintain a reasonably quiet facility between the hours of 10 p.m. and 7 a.m. No generators are allowed to be operational in the improved

area of the Indian Creek Recreational Area between the aforementioned hours.

8. Overnight users shall not erect or display unsightly or inappropriate structures or features which, in the opinion of the site manager, may create a disturbing or otherwise unpleasant condition detrimental to the general site use.

9. No permittee may repair or install any site equipment or furnishings unless authorized and supervised by the site manager.

10. No person shall be permitted to reside at Indian Creek Recreation Area without written approval of the commissioner.

11. Parking for boat trailers and additional vehicles may be allowed at the discretion of the site manager or his designee, subject to individual site suitability for such purposes.

12. Permittees waive and release all claims against the state of Louisiana for any damage to person or property arising from the privileges granted by any use permit.

B. Camping

1. With the exception of a campground host and campsites reserved at the 30 day off-season rate, overnight camping is limited to 14 consecutive days. After 14 consecutive days of occupancy at a site, the visitor must vacate the site for seven consecutive days before occupancy may be resumed. During winter rental (November 1-February 28), a camper may occupy a site for 30 or more days at a time. However, at the site manager's discretion, and subject to availability, overnight camping may be extended on a weekly basis. No campsite may be vacated for longer than a 24-hour continuous period under any permit agreement.

2. Indian Creek Recreation Area is intended for tents and recreational vehicles only. The term "recreational vehicles" includes but is not limited to camper trailers, travel trailers and 5th wheel trailers but does not include ATVs.

3. Campsite occupancy is limited to six persons. At designated group camping areas occupancy limits are set by the site manager or his designee.

4. The following are to be used as general guidelines to define a camping unit by the site manager or his designee:

a. one camper with additional vehicle and one large tent or two small tents;

b. two vehicles and tent combinations not to exceed three tents.

AUTHORITY NOTE: Promulgated in accordance with Act 591 of 1970 and R.S. 3:4402.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Forestry, LR 42:1506 (September 2016).

§529. Fees and Emergency Closing

A. The use of Indian Creek Recreation Area is subject to charges which will be imposed by the manager according to the schedule of fees approved by the department. The manager or his agents are responsible for the collection and enforcement of these fees.

B. The commissioner or his authorized agent may direct the closing of Indian Creek Recreation Area to public use when or if any natural or man-made occurrence has affected, or is expected to affect, the operation and management of the

site to a degree that normal public use and enjoyment are altered, or when such use may impair the health, safety, and well-being of the public or employees of the agency.

AUTHORITY NOTE: Promulgated in accordance with Act 591 of 1970 and R.S. 3:4402.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Forestry, LR 42:1506 (September 2016).

§531. Fees and Exemptions; Day-Use Fees

A. General Admission Day-Use Entrance Fees

1. The day-use fee at Indian Creek Recreational Area is \$7 per vehicle.

2. A self-service fee system may be used to collect user fees.

AUTHORITY NOTE: Promulgated in accordance with Act 591 of 1970 and R.S. 3:4402.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Forestry, LR 42:1506 (September 2016).

§533. Fees and Exemptions; Miscellaneous Services and Facilities Fees

A. Boating

1. The standard rate for rental flat bottom boats with life jackets and two paddles is \$30 per boat per day. Additional life jackets are available at a rental fee of \$1 each per day.

2. Canoes may be rented for \$30 per canoe, per day. Kayaks and paddle boats may be rented for \$30 per vessel, per day. All fees include paddles and life jackets.

B. Group Rental Pavilions

1. Exclusive use of a group pavilion can only be made by a rental permit and payment of a rental fee. The group pavilion can be reserved in advance with payment of the rental fee.

2. The pavilion rental rate is \$100 per day.

AUTHORITY NOTE: Promulgated in accordance with Act 591 of 1970 and R.S. 3:4402.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Forestry, LR 42:1506 (September 2016).

§535. Fees and Exemptions; Exemptions/Discounts

A. Veterans. A veteran of the armed forces of the United States who shows proof of same and any person(s) accompanying him in a single, private, non-commercial vehicle, may receive a 10 percent discount on and camp site rental fees. There is no discount on the general entrance fee, winter rates or other rental rates (kayaks, boats, etc.).

B. School Groups. Any child who is on a field trip conducted as part of the curriculum of the school and any classroom teacher, parent, bus driver and any other person accompanying a school child on such a field trip are exempt from paying the general admission charge to any site.

C. Senior Citizens. Any person age 50 or older may receive a 10 percent discount on camp site rental fees. There is no discount on the general entrance fee, winter rates or other rental rates (kayaks, boats, etc.).

AUTHORITY NOTE: Promulgated in accordance with Act 591 of 1970 and R.S. 3:4402.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Forestry, LR 42:1506 (September 2016).

§537. Fees and Exemptions; Special Promotions

A. From time-to-time, as deemed appropriate by the commissioner of Agriculture and Forestry or his designee, special programs, occupancy regulations, discounts or waivers on user fees may be offered in order to encourage visitation. These special promotional offers must be reviewed and reauthorized annually.

AUTHORITY NOTE: Promulgated in accordance with Act 591 of 1970 and R.S. 3:4402.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Forestry, LR 42:1507 (September 2016).

§539. Fees and Exemptions; Overnight Use

A. Camping

1. Regular Campsite. A regular campsite rents for \$18 per night during the winter season (November 1-February 28) and \$22 per night during the summer season (March 1-October 31). A regular waterfront campsite rents for \$22 per night during the winter season (November 1-February 28) and \$28 per night during the summer season (March 1-October 31).

2. Pull-Thru Campsite. A pull-thru campsite consists of two sites.

a. Pull-Thru Non-Waterfront Single Campsite. A pull-thru single non-water front campsite rents for \$18 per night during the winter season (November 1-February 28) and \$22 per night during the summer season (March 1-October 31).

b. Pull-Thru Non-Waterfront Double Campsite. A pull-thru non-water front double campsite rented for use by a single tenant camper rents for \$32 per night during the winter season (November 1-February 28) and \$42 per night during the summer season (March 1-October 31).

c. Pull-Thru Waterfront Single Campsite. A pull-thru waterfront single campsite rented for use by a single tenant camper rents for \$22 per night during the winter season (November 1-February 28) and \$28 per night during the summer season (March 1-October 31).

d. Pull-Thru Waterfront Double Campsite (ultra pull-thru). A pull-thru waterfront double campsite rented for use by a single tenant camper rents for \$42 per night during the winter season (November 1-February 28) and \$54 per night during the summer season (March 1-October 31).

3. Full Hook-Up. A full hook-up campsite rents for \$42 per night during the winter season (November 1-February 28) and \$54 per night during the summer season (March 1-October 31).

4. Primitive Area. A primitive area campsite rents for \$14 per tent per day.

B. Rally camping areas are those designated and reserved for use by organized groups of overnight campers in the primitive area of the campsite.

1. Fees—Rally Camping

a. A fee of \$50 per night is assessed to the group for the exclusive use of an area. Rally camping is available for tent camping in the primitive area of the campsite only.

C. Thirty-Day Off-Season Rates (available November 1-February 28 only)

1. A fee of \$270 is assessed for use of a non-waterfront single campsite for 30 days.

2. A fee of \$375 is assessed for use of a single waterfront campsite for 30 days.

D. A fee of \$5 per night is assessed for hook-up to the sewerage connection.

E. The fees set forth in this Section shall become effective October 1, 2016.

F. Online or telephone payments of the fees set forth in this Chapter may be subject to a credit card transaction fee.

AUTHORITY NOTE: Promulgated in accordance with Act 591 of 1970 and R.S. 3:4402.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Forestry, LR 42:1507 (September 2016).

§541. Reservation Policy

A. General Provisions

1. Reservations may be made for Indian Creek Recreational Area for an allotted number of campsites as determined by the site manager. A non-refundable service fee is charged for all reservations.

2. Reservations are accepted only from persons 18 years of age or older. All persons under 18 years of age must be accompanied by adults when using reserved facilities.

3. Payment must be made in full at the time the reservation is made.

4. Cancellation of a reservation initiated by the site user and made up to 48 hours prior to the date of arrival will incur a one night charge. No cancellations will be accepted 48 hours prior to the date of arrival. A transfer of reservation dates will be treated as a cancellation and a new reservation, and is therefore subject to the cancellation policy. There is no charge to transfer a reservation from one site to a different site on the same dates. Requests for waivers of the cancellation fee must be made in writing to the commissioner of Agriculture and Forestry or his designee and will be granted only in extreme circumstances.

5. In the event reservations must be canceled by LDAF staff (e.g., for maintenance or emergency reasons) the rental fee will be refunded in full.

AUTHORITY NOTE: Promulgated in accordance with Act 591 of 1970 and R.S. 3:4402.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Forestry, LR 42:1507 (September 2016).

§543. Refunds

A. Refunds will not be issued to visitors evicted for enforcement or disciplinary reasons.

B. All reservation refunds must be issued through the Office of Management and Finance or through the online reservations system. No cash refunds will be issued.

C. Refunds of day use fees are not granted when a visitor, by his own choosing, leaves the site due to inclement weather. In the event of a declared state of emergency that directly affects Indian Creek Recreation Area, refunds may be issued to all campers.

AUTHORITY NOTE: Promulgated in accordance with Act 591 of 1970 and R.S. 3:4402.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Forestry, LR 42:1507 (September 2016).

Mike Strain, DVM
Commissioner

1609#073

RULE

**Department of Children and Family Services
Division of Programs
Licensing Section**

Health Status (LAC 67:V.7313 and 7315)

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:V, Subpart 8, Chapter 73, Child Placing Agencies—General Provisions, Sections 7313 and 7315.

The Rule provides for the expansion of the number of potential applicants which enables the department to certify additional foster and adoptive parents who will provide a safe and nurturing environment for our most vulnerable children. The Rule allows potential applicants that were previously excluded because of their health status to become certified foster or adoptive parents. The potential applicant must have a signed statement by a licensed physician or health care professional verifying that their health status is under medical care and does not present a health or safety risk to a child placed in their home. The previous policy was more restrictive than necessary to ensure the health and safety of children placed in foster homes, therefore a change was needed.

This action was made effective by an Emergency Rule dated and effective February 26, 2016.

Title 67

SOCIAL SERVICES

Part V. Child Welfare

Subpart 8. Residential Licensing

Chapter 73. Child Placing Agencies—General Provisions

§7313. Foster Care Services

A. - B.2.d.iv.(a). ...
v. health;

(a). a statement for each member of the applicant's household signed by a licensed physician or licensed health care professional verifying that the individual:

(i). has no past nor present physical or mental illness or condition that would present a health or safety risk to a child placed in the applicant's home;

(ii). is physically able to provide necessary care for a child; and

(iii). is free of a communicable or infectious disease or if not free of a communicable or infectious disease, there shall be a signed statement by the licensed treating physician or licensed treating health care professional verifying the following:

[a]. the individual is under the care of a licensed physician or licensed health care professional; and

[b]. the present condition does not present a health or safety risk to a child placed in the applicant's home.

B.2.e. - 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).

§7315. Adoption Services

A. - F.2.d.iv.(a). ...

v. health:

(a). a statement for each member of the applicant's household signed by a licensed physician or licensed health care professional verifying that the individual:

(i). has no past nor present physical or mental illness or condition that would present a health or safety risk to a child placed in the applicant's home;

(ii). is physically able to provide necessary care for a child; and

(iii). is free of a communicable or infectious disease or if not free of a communicable or infectious disease, there shall be a signed statement by the licensed treating physician or licensed treating health care professional verifying the following:

[a]. the individual is under the care of a licensed physician or licensed health care professional; and

[b]. the present condition does not present a health or safety risk to a child placed in the applicant's home.

F.2.e. - 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).

Marketa Garner Walters
Secretary

1609#034

RULE

**Office of the Governor
Office of Elderly Affairs**

Policy and Procedure Manual (LAC 4:VII.Chapter 11)

In accordance with the Administrative Procedure Act, R.S. 49:950(B) et seq., the Governor's Office of Elderly Affairs has amended and repealed certain Sections in LAC 4, Part VII, Chapter 11, §§1101 through 1245, regarding policy and procedures for area agencies on aging, councils on aging, and ombudsman.

The purpose of this Rule is to clarify the requirements for area agencies on aging, councils on aging, and ombudsman regarding procedures. There will be no adverse fiscal impact on the state as a result of this Rule inasmuch as funding is appropriated by law or by an approved formula to disburse state and federal funds.

Title 4

ADMINISTRATION

Part VII. Governor's Office

Chapter 11. Elderly Affairs

Subchapter A. State Agency on Aging

§1101. Office of Elderly Affairs

A. Authority, Organization and Purpose

1. Chapter 7 of title 46 of the *Louisiana Revised Statutes* of 1950 (R.S. 46:931 et seq.) provides for the establishment and administration of the Office of Elderly Affairs (GOEA) within the Office of the Governor.

2. GOEA serves as the focal point for the development and administration of public policy regarding Louisiana's elderly citizens. GOEA is the sole state agency designated by the governor and the legislature to develop and administer the state plan on aging. GOEA also administers the Long Term Care Ombudsman Program.

B. Powers and Responsibilities

1. GOEA has the following powers and duties under state law:

a. to administer the Older Americans Act and related programs;

b. to collect facts and statistics and make special studies of conditions pertaining to the employment, health, financial status, recreation, social adjustment or other conditions affecting the welfare of the aged;

c. to keep abreast of the latest developments in aging throughout the nation and to interpret such findings to the public;

d. to provide for a mutual exchange of ideas and information on the national, state, and local levels;

e. to conduct hearings and to subpoena witnesses;

f. to make recommendations to the governor and to the legislature for needed improvements and additional resources to promote the welfare of the aging in the state;

g. to adopt and promulgate rules and regulations deemed necessary to implement the provisions of the law in accordance with the Administrative Procedure Act;

h. to exercise the functions of the state relative to nutrition programs for the elderly and handicapped citizens of Louisiana;

i. to operate the Office of the State Long Term Care Ombudsman;

j. to administer all federal funds appropriated, allocated, or otherwise made available to the state for services to the elderly, whether by block grant or in any other form, with the exception of funds for programs administered by the Department of Children and Family Services or the Department of Health, on August 15, 1995, and to distribute those funds in accordance with and consistent with R.S. 46:936;

k. to approve recommendations from any parish voluntary council on aging prior to the creation of a new state-funded senior center in the state; and

l. to provide meeting space and staff support for the Executive Board on Aging [R.S. 46:933(G)].

C. Functions of the Governor's Office of Elderly Affairs

1. Administrative Functions—

a. to develop and follow written policies in carrying out its functions under state and federal laws and regulations;

b. to develop and enforce policies governing all aspects of programs operating under the Older Americans Act, whether operated directly or under contract;

c. to manage and control funds received from federal and state sources.

2. Advocacy Functions—

a. to review, monitor, evaluate and comment on all federal, state and local plans, budgets, regulations, programs, laws, levies, hearings, policies, and actions which affect or may affect older individuals and recommend any changes in these which GOEA considers to be appropriate;

b. to review and comment, upon request, on applications to state and federal agencies for assistance in meeting the needs of the elderly;

c. to consolidate and coordinate multiple state and federal resources to facilitate the development of comprehensive community-based services for the elderly; and

d. to develop financial resources for programs on aging beyond those allocated under the Older Americans Act.

3. Service Systems Development Functions—

a. to develop and administer the state plan on aging;

b. to be primarily responsible for the planning, policy development, administration, coordination, priority setting and evaluation of all state activities related to the objectives of the Older Americans Act;

c. to divide the state into distinct planning and service areas, in accordance with guidelines issued by the Administration on Aging;

d. to designate for each planning and service area after consideration of the views offered by the unit or units of general purpose local government in such area, a public or private nonprofit agency or organization as the area agency on aging (AAA) for such area;

e. in consultation with area agencies on aging, in accordance with guidelines issued by the Administration on Aging, and using the best available data, to develop and publish, for review and comment, a formula for distribution within the state of funds received under title III of the Older Americans Act that takes into account:

i. the geographical distribution of older individuals in the state; and

ii. the distribution among planning and service areas of older individuals with greatest economic need and/or greatest social need, with particular attention to low-income minority older individuals;

f. to develop elder rights protection systems focused on protecting the rights of vulnerable older individuals who reside in the community and in institutional settings. It includes the provision of long term care ombudsman services; legal assistance development.

D. Governor's Office of Elderly Affairs Administration

1. Policies

a. OEA shall develop and enforce written policies in carrying out its functions under state and federal laws and regulations. These policies shall be developed in consultation with other appropriate parties within the state. GOEA shall keep its policies current, and revise them as necessary in accordance with the Louisiana Administrative Procedure Act.

2. Program Monitoring

a. OEA shall monitor the performance of all programs and activities initiated under the Older Americans Act for quality and effectiveness.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:931 to R.S. 46:935, R.S. 14:403.2, OAA Sections 203, 305, 307 and 731, and 45 CFR 1321.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Elderly Affairs, LR 10:464 (June 1984), amended LR 11:1078 (November 1985), LR 25:2199 (November 1999), LR 28:1016 (May 2002), LR 31:1330 (June 2005), LR 42:1508 (September 2016).

§1103. The Louisiana Executive Board on Aging

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:933, R.S. 46:934 and OAA Sections 305(a)(1) and 307(a)(11).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Elderly Affairs, LR 10:464 (June 1984), amended LR 11:1078 (November 1985), LR 25:2204 (November 1999), repealed LR 42:1510 (September 2016).

§1107. Planning and Service Area Designation

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:932.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Elderly Affairs, LR 10:464 (June 1984), amended LR 11:1078 (November 1985), LR 25:2206 (November 1999), LR 25:2407 (December 1999), repealed LR 42:1510 (September 2016).

§1109. Area Agency on Aging Designation

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:932, R.S. 46:935 and OAA Section 305(a)(1).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Elderly Affairs, LR 10:464 (June 1984), amended LR 11:1078 (November 1985), LR 25:2206 (November 1999), repealed LR 42:1510 (September 2016).

Subchapter B. Area Agency on Aging

§1121. Definitions

Repealed.

AUTHORITY NOTE: Promulgated in accordance with OAA Section 305(a)(2)(A).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Elderly Affairs, LR 10:464 (June 1984), amended LR 11:1078 (November 1985), LR 26:70 (January 2000), LR 28:1017 (May 2002), repealed LR 42:1510 (September 2016).

§1123. Purpose of the Area Agency on Aging

Repealed.

AUTHORITY NOTE: Promulgated in accordance with OAA Section 302(l).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Elderly Affairs, LR 10:464 (June 1984), amended LR 11:1078 (November 1985), LR 26:71 (January 2000), repealed LR 42:1510 (September 2016).

§1125. Area Agency on Aging Standards

Repealed.

AUTHORITY NOTE: Promulgated in accordance with OAA Sections 306(a)(1), 306(a)(6)(i), 306(a)(7), 306(a)(12), and 321(c).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Elderly Affairs, LR 10:464 (June 1984), amended LR 11:1078 (November 1985), LR 26:72 (January 2000), LR 28:1017 (May 2002), repealed LR 42:1510 (September 2016).

§1127. Area Agency on Aging Responsibilities

Repealed.

AUTHORITY NOTE: Promulgated in accordance with OAA Section 306 and 45 CFR 1321.61(a)(4).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Elderly Affairs, LR 10:464 (June 1984), amended LR 11:1078 (November 1985), LR 17:600 (June 1991), LR 18:1376 (December 1992), LR 26:73 (January 2000), repealed LR 42:1510 (September 2016).

§1129. Area Agency on Aging Governing Body

Repealed.

AUTHORITY NOTE: Promulgated in accordance with OAA Section 305(c)(4) and Section 307(a)(11).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Elderly Affairs, LR 10:464 (June 1984), amended LR 11:1078 (November 1985), LR 17:600 (June 1991), LR 26:74 (January 2000), repealed LR 42:1510 (September 2016).

§1131. Area Agency on Aging Advisory Council

Repealed.

AUTHORITY NOTE: Promulgated in accordance with OAA Sec. 306 (a)(6)(F) and 45 CFR 1321.57.

HISTORICAL NOTE: Promulgated by the Office of the Governor's Office of Elderly Affairs, LR 10:464 (June 1984), amended LR 11:1078 (November 1985), LR 17:599 (June 1991), LR 26:74 (January 2000), repealed LR 42:1510 (September 2016).

§1133. Area Plan

Repealed.

AUTHORITY NOTE: Promulgated in accordance with OAA Section 306, and Section 307.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Elderly Affairs, LR 10:464 (June 1984), amended LR 11:1078 (November 1985), LR 17:57 (January 1991), LR 18: 1376 (December 1992), LR 26:76 (January 2000), LR 28:1017 (May 2002), repealed LR 42:1510 (September 2016).

§1135. Program Administration

Repealed.

AUTHORITY NOTE: Promulgated in accordance with OAA Section 306 and Section 307(a)(13)(C).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Elderly Affairs, LR 10:464 (June 1984), amended LR 11:1078 (November 1985), LR 26:76 (January 2000), repealed LR 42:1510 (September 2016).

§1137. Services to Special Populations

Repealed.

AUTHORITY NOTE: Promulgated in accordance with OAA Section 307(a)(5) and 45 CFR 1321.39.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Elderly Affairs, LR 10:464 (June 1984), amended LR 11:1078 (November 1985), LR 26:77 (January 2000), repealed LR 42:1510 (September 2016).

§1139. State Agency Approval of Area Agency on Aging Contracts

Repealed.

AUTHORITY NOTE: Promulgated in accordance with OAA Section 212 and 45 CFR 1321.55.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Elderly Affairs, LR 10:464 (June 1984), amended LR 11:1078 (November 1985), LR 26:77 (January 2000), repealed LR 42:1510 (September 2016).

§1141. Priority Services

Repealed.

AUTHORITY NOTE: Promulgated in accordance with OAA Section 306(a)(2), Section 306(b)(2), and Section 307(a)(12).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Elderly Affairs, LR 10:464 (June 1984), amended LR 11:1078 (November 1985), LR 18:610 (June 1992), LR 26:77 (January 2000), LR 28:1017 (May 2002), repealed LR 42:1510 (September 2016).

§1143. Service Procurement

Repealed.

AUTHORITY NOTE: Promulgated in accordance with OAA Section 307(a)(8)(c), 307(a)(10), OMB Circular A-110.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Elderly Affairs, LR 10:464 (June 1984), amended LR 11:621 (June 1885), LR 11:1078 (November 1985), LR 16:503 (June 1990), LR 18:610 (June 1992), LR 26:77 (January 2000), LR 28:1017 (May 2002), repealed LR 42:1510 (September 2016).

Subchapter C. Councils on Aging

§1151. Establishment of Parish Councils on Aging

A. Issuance of Charters. Charters for the establishment of parish voluntary councils on aging (hereafter referred to as "council on aging") are issued by the Secretary of State upon

the approval of applications by the Governor's Office of Elderly Affairs (GOEA) pursuant to R.S. 46:1602. Immediately upon issuance of the charter by the Secretary of State, each council on aging is authorized to receive public funds from any governmental or political subdivision. Such funds shall be subject to audit by GOEA and the legislative auditor, or his duly appointed representative.

B. Governance

1. The functions of each council on aging shall comply with the objectives of state laws and shall be governed by the policies and regulations established by the Office of Elderly Affairs. Copies of such policies and regulations shall be furnished to each council on aging by OEA prior to their effective date.

2. Each council on aging shall be voluntary as to its membership and as to all plans, programs and activities, and each shall be non-profit making and politically non-partisan and non-factional and shall be non-sectarian.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:87.2(E), 46:932(8), 46:1601, 46:1602, and 46:1605.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Elderly Affairs, LR 25:1467 (August 1999), amended LR 42:1510 (September 2016).

§1153. Membership

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:932(8), 46:1602, 46:1603.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Elderly Affairs, LR 25:1468 (August 1999), repealed LR 42:1511 (September 2016).

§1155. Council on Aging Board of Directors

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:932(8), 46:1605.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Elderly Affairs, LR 25:1469 (August 1999), amended LR 25:2407 (December 1999), repealed LR 42:1511 (September 2016).

§1157. Administrative and Personnel Responsibilities

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:932(8), 46:1605.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Elderly Affairs, LR 25:1471 (August 1999), repealed LR 42:1511 (September 2016).

§1159. Fiscal Responsibility

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:932(8), 46:1606.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Elderly Affairs, LR 25:1472 (August 1999), repealed LR 42:1511 (September 2016).

§1161. General Requirements

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1601 and R.S. 46:1602.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office Elderly Affairs, LR 10:464 (June 1984), amended LR 11:1078 (November 1985), LR 25:1473 (August 1999), repealed LR 42:1511 (September 2016).

§1163. Dissolution of Councils on Aging

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1602 and R.S. 46:1606

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Elderly Affairs, LR 10:464 (June 1984), amended LR 11:1078 (November 1985), LR 25:1473 (August 1999), repealed LR 42:1511 (September 2016).

Subchapter D. Service Provider Responsibilities

§1171. Scope of Requirements

Repealed.

AUTHORITY NOTE: Promulgated in accordance with 45 CFR 1321.17 and CFR 1321.11

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Elderly Affairs, LR 10:464 (June 1984), amended LR 11:1078 (November 1985), LR 25:862 (May 1999), repealed LR 42:1511 (September 2016).

§1173. Advisory Role of Older Persons to Full Services Providers

Repealed.

AUTHORITY NOTE: Promulgated in accordance with 45 CFR 1321.17 and CFR 1321.11.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Elderly Affairs, LR 10:464 (June 1984), amended LR 11:1078 (November 1985), LR 25:862 (May 1999), repealed LR 42:1511 (September 2016).

§1175. Administrative and Personnel Responsibilities

Repealed.

AUTHORITY NOTE: Promulgated in accordance with 45 CFR 1321.17 and CFR 1321.11.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Elderly Affairs, LR 10:464 (June 1984), amended LR 11:1078 (November 1985), LR 25:862 (May 1999), repealed LR 42:1511 (September 2016).

§1177. Fiscal Responsibility

Repealed.

AUTHORITY NOTE: Promulgated in accordance with OAA Section 307(a)(7) and CFR 1321.11.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Elderly Affairs, LR 10:464 (June 1984), amended LR 11:1078 (November 1985), LR 25:862 (May 1999), repealed LR 42:1511 (September 2016).

§1179. Target Groups

Repealed.

AUTHORITY NOTE: Promulgated in accordance with 45 CFR 1321.5(e) and CFR 1321.11.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Elderly Affairs, LR 10:464 (June 1984), amended LR 11:1078 (November 1985), LR 25:863 (May 1999), repealed LR 42:1511 (September 2016).

§1181. Facility Standards

Repealed.

AUTHORITY NOTE: Promulgated in accordance with 45 CFR 1321.5(e) and CFR 1321.11.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Elderly Affairs, LR 10:464 (June 1984), amended LR 11:1078 (November 1985), LR 25:863 (May 1999), repealed LR 42:1511 (September 2016).

§1183. Civil Rights

Repealed.

AUTHORITY NOTE: Promulgated in accordance with 45 CFR 1321.5(c) and CFR 1321.11.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Elderly Affairs, LR 10:464 (June 1984), amended LR 11:1078 (November 1985), LR 25:864 (May 1999), repealed LR 42:1511 (September 2016).

§1185. Political Activity

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:932 and CFR 1321.11.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Elderly Affairs, LR 10:464 (June 1984), amended LR 11:1078 (November 1985), LR 25:865 (May 1999), repealed LR 42:1511 (September 2016).

§1187. Outreach and Coordination Requirements

Repealed.

AUTHORITY NOTE: Promulgated in accordance with OAA Section 306(a)(5)(B), Section 307(a)(13)(E), Section 307(a)(20)(A), Section 307(a)(17), Section 306(a)(6)(H), and Section 306(a)(6)(K), CFR 1321.11 and 45 CFR 1321.65.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Elderly Affairs, LR 10:464 (June 1984), amended LR 11:1078 (November 1985), LR 25:865 (May 1999), repealed LR 42:1512 (September 2016).

§1189. Records and Reports

Repealed.

AUTHORITY NOTE: Promulgated in accordance with OAA Section 307(a)(4) and CFR 1321.11.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Elderly Affairs, LR 10:464 (June 1984), amended LR 11:1078 (November 1985), LR 25:865 (May 1999), repealed LR 42:1512 (September 2016).

§1191. Confidentiality and Disclosure of Information

Repealed.

AUTHORITY NOTE: Promulgated in accordance with 45 CFR 1321.11 and CFR 1321.51.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Elderly Affairs, LR 10:464 (June 1984), amended LR 11:1078 (November 1985), LR 25:866 (May 1999), repealed LR 42:1512 (September 2016).

§1193. Financial Resource Development

Repealed.

AUTHORITY NOTE: Promulgated in accordance with OAA Section 307(a)(7) and CFR 1321.11.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Elderly Affairs, LR 10:464 (June 1984), amended LR 11:1078 (November 1985), LR 25:866 (May 1999), repealed LR 42:1512 (September 2016).

§1195. Contributions for Older Americans Act Title III Services

Repealed.

AUTHORITY NOTE: Promulgated in accordance with OAA Section 307(a)(13)(C), and 45 CFR 1321.67.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Elderly Affairs, LR 10:464 (June 1984), amended LR 11:1078 (November 1985), LR 25:866 (May 1999), repealed LR 42:1512 (September 2016).

§1197. Program Income

Repealed.

AUTHORITY NOTE: Promulgated in accordance with OAA Section 307(a)(7), 45 CFR 1321.67, 45 CFR 1321.73 and 45 CFR 92.25.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Elderly Affairs, LR 10:464 (June 1984), amended LR 11:1078 (November 1985), LR 12:366 (June 1986), LR 25:867 (May 1999), repealed LR 42:1512 (September 2016).

§1199. Property Control and Disposition

Repealed.

AUTHORITY NOTE: Promulgated in accordance with OAA Section 307(a)(7), 45 CFR Subtitle A, Part 92.31 and 92.32 and 45 CFR Part 74 Subpart O.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Elderly Affairs, LR 10:464 (June 1984), amended LR 11:1078 (November 1985), LR 18:610 (June 1992), LR 25:867 (May 1999), LR 28:50 (January 2001), repealed LR 42:1512 (September 2016).

§1201. Purchasing

Repealed.

AUTHORITY NOTE: Promulgated in accordance with OAA Section 307(a)(7).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Elderly Affairs, LR 10:464 (June 1984), amended LR 11:1078 (November 1985), LR 18:611 (June 1992), LR 25:1474 (August 1999), repealed LR 42:1512 (September 2016).

§1203. Applicable Laws and Standards

A. Service providers shall comply with all OEA licensing standards, all applicable accrediting standards, any applicable federal standards and all applicable state and federal laws.

AUTHORITY NOTE: Promulgated in accordance with 45 CFR 1231.9(e)(3).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Elderly Affairs, LR 10:464 (June 1984), amended LR 11:1078 (November 1985), LR 25:1476 (August 1999), LR 42:1512 (September 2016).

§1207. Monitoring by the Office of Elderly Affairs

Repealed.

AUTHORITY NOTE: Promulgated in accordance with OAA Section 307(a)(8).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Elderly Affairs, LR 10:464 (June 1984), amended LR 11:1078 (November 1985), LR 25:1476 (August 1999), repealed LR 42:1512 (September 2016).

§1209. Eldercare/Case Management

Repealed.

AUTHORITY NOTE: Promulgated in accordance with OAA Section 306(a)(2) and Section 307(a)(5).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Elderly Affairs, LR 18:1376 (December 1992), repealed LR 42:1512 (September 2016).

Subchapter E. Uniform Service Requirements

§1215. Service Recipient Priorities and Eligibility Requirements

Repealed.

AUTHORITY NOTE: Promulgated in accordance with OAA Section 102(29), Section 102(30), Section 305(a)(2)(E), Section 306(a)(1), Section 307(a)(24), and 45 CFR 1321.65 and 1321.69.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Elderly Affairs, LR 10:464 (June 1984), amended LR 11:1078 (November 1985), LR 25:868 (May 1999), LR 28:1016 (May 2002), repealed LR 42:1512 (September 2016).

§1217. Uniform Definitions of Services for the Aging

Repealed.

AUTHORITY NOTE: Promulgated in accordance with OAA Section 211 and Section 307(a).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Elderly Affairs, LR 10:464 (June 1984), amended LR 11:1078 (November 1985), LR 25:869 (May 1999), repealed LR 42:1512 (September 2016).

§1219. Title III-B Supportive Services and Senior Centers

Repealed.

AUTHORITY NOTE: Promulgated in accordance with OAA Section 321 and 45 CFR 1321.63.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Elderly Affairs, LR 10:464 (June 1984), amended LR 11:1078 (November 1985), LR 25:869 (May 1999), repealed LR 42:1512 (September 2016).

§1223. Title III-C Nutrition Services

Repealed.

AUTHORITY NOTE: Promulgated in accordance with OAA Section 307(a)(13), Section 313, and Section 336.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Elderly Affairs, LR 10:464 (June 1984), amended LR 11:1078 (November 1985), LR 15:384 (May 1989), LR 16:505 (June 1990), LR 24:1930 (October 1998), LR 28:1016 (May 2002), repealed LR 42:1512 (September 2016).

§1225. Legal Assistance Program

Repealed.

AUTHORITY NOTE: Promulgated in accordance with OAA Section 307(a)(15), and Section 307(a)(18).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Elderly Affairs, LR 10:464 (June 1984), amended LR 11:1078 (November 1985), LR 25:869 (May 1999), LR 28:1016 (May 2002), repealed LR 42:1513 (September 2016).

§1227. Information and Assistance Service Requirements

Repealed.

AUTHORITY NOTE: Promulgated in accordance with OAA Section 307(a)(9), and Section 306(a)(4).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Elderly Affairs, LR 10:464 (June 1984), amended LR 11:1078 (November 1985), LR 25:869 (May 1999), repealed LR 42:1513 (September 2016).

§1229. Office of the Long Term Care Ombudsman

A. Purpose. The purpose of the Louisiana Office of the Long Term Care Ombudsman is to ensure that residents of long term care facilities receive the quality of life to which they are entitled.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:2010.4 and OAA Section 307(a)(12).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Elderly Affairs, LR 10:464 (June 1984), amended LR 11:35 (January 1985), LR 11:1078 (November 1985), LR 13:742 (December 1987), LR 15:379 (May 1989), LR 17:600 (June 1991), repromulgated LR 17:661 (July 1991), amended LR 18:267 (March 1992), LR 24:1928 (October 1998), LR 28:1018 (May 2002), LR 42:1513 (September 2016).

§1231. Senior Community Service Employment Program

A. Purpose. The purpose of the Senior Community Service Employment Program is to foster and promote useful part-time opportunities in community service activities for unemployed low-income persons who are 55 years or older and who have poor employment prospects, and in order to foster individual economic self-sufficiency and to increase the number of persons who may enjoy the benefits of unsubsidized employment in both the public and private sectors.

AUTHORITY NOTE: Promulgated in accordance with OAA Section 501, 20 CFR Part 674 and 20 CFR Part 89.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Elderly Affairs, LR 10:464 (June 1984), amended LR 11:1078 (November 1985), LR 24:1766 (September 1998), LR 28:1018 (May 2002), LR 42:1513 (September 2016).

§1233. State Funded Senior Center Operation

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:932 and R.S. 43:1119.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Elderly Affairs, LR 10:464 (June 1984), amended LR 11:1078 (November 1985), LR 15:384 (May 1989), LR 25:870 (May 1999), repealed LR 42:1513 (September 2016).

§1235. Federally Funded Multipurpose Senior Centers Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:932, 45 CFR 1321.75, OAA Sec. 307, 312, and 321.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Elderly Affairs, LR 18:735 (July 1992), repealed LR 42:1513 (September 2016).

§1239. Protective Services for the Elderly

A. Overview of Elderly Protective Services

1. Purpose. The purpose of protective services is to protect adults who cannot physically or mentally protect themselves and who are harmed or threatened with harm through action or inaction by themselves or by the individuals responsible for their care or by other persons.

AUTHORITY NOTE: Promulgated in accordance with R.S. 14:403.2.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Elderly Affairs, LR 19:327 (March 1993), amended LR 20:543 (May 1994), LR 24:1763 (September 1998), LR 42:1513 (September 2016).

§1241. Eldercare/Case Management

Repealed.

AUTHORITY NOTE: Promulgated in accordance with OAA Section 306(a)(2) and Section 307(a)(5).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Elderly Affairs, LR 18:1376 (December 1992), repealed LR 42:1513 (September 2016).

§1243. Frail Elderly Program

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:937.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Elderly Affairs, LR 19:1422 (November 1993), repromulgated LR 20:48 (January 1994), repealed LR 42:1513 (September 2016).

§1245. Family Caregiver Support Program

A. Purpose. The purpose of the Family Caregiver Support Program is to provide multifaceted systems of support services for family caregivers and for grandparents or older individuals who are relative caregivers.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:931 to R.S. 46:935, Sections 371, 372, 373, and 374 of the Older Americans Act of 1965, as Amended in 2000, (P. L. 106-501); and 42 U.S.C. 6001.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Elderly Affairs, LR 27:1518 (September 2001), amended LR 31:1331 (June 2005), LR 42:1513 (September 2016).

Karen J. Ryder
Deputy Assistant Secretary

1609#001

RULE

Department of Health Behavior Analyst Board

Continuing Education for Licensed Behavior Analysts and
State Certified Assistant Behavior Analysts
(LAC 46:VIII.Chapter 8)

This Rule establishes the requirements for each licensed behavior analyst and state certified assistant behavior analyst

to complete continuing education hours within biennial reporting periods beginning in December 2016. Continuing education is an ongoing process consisting of learning activities that increase professional development.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part VIII. Behavior Analysts

Chapter 8. Continuing Education Requirements for Licensed Behavior Analysts and State Certified Assistant Behavior Analysts

§801. Preface

A. Pursuant to R.S. 37:3713, each licensed behavior analyst and state certified assistant behavior analyst is required to complete continuing education hours within biennial reporting periods. Continuing education is an ongoing process consisting of learning activities that increase professional development. Continuing professional development activities:

1. are relevant to the practice of behavior analysis, education and science;
2. enable behavior analysts to keep pace with emerging issues and technologies; and
3. allow behavior analysts to maintain, develop, and increase competencies in order to improve services to the public and enhance contributions to the profession.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3713.

HISTORICAL NOTE: Promulgated by the Department of Health, Behavior Analyst Board, LR 42:1514 (September 2016).

§803. Requirements

A. For the reporting periods that begin December 2016 and henceforth, 32 credits of continuing professional development will be required in the biennial reporting period for licensed behavior analysts and 20 credits for state certified assistant behavior analysts. The hours must conform to the distribution listed below.

B. Within each reporting period, four of the required hours or credits of continuing professional development must be within the area of ethics.

C. Licensees can accumulate continuing professional development credits in six categories:

1. academic:
 - a. completion of graduate level college or university courses. Course content must be entirely behavior analytic. Courses must be from a United States or Canadian institution of higher education fully or provisionally accredited by a regional, state, provincial or national accrediting body, or approved by the board;
 - b. one academic semester credit is equivalent to 15 hours of continuing education and one academic quarter credit is equivalent to 10 hours of continuing education. Any portion or all of the required number of hours of continuing education may be applied from this category during any two-year certification period;
 - c. required documentation is a course syllabus and official transcript;
2. traditional approved events:
 - a. completion of events sponsored by providers approved by the Behavior Analyst Certification Board. Any portion or all of the total required number of hours of

continuing education may be applied from this category during any three-year certification period;

b. required documentation is a certificate or letter from the approved continuing education (ACE) provider;

3. non-approved events:

a. completion or instruction of a seminar, colloquium, presentation, conference event, workshop or symposium not approved by the BACB, only if they relate directly to the practice of behavior analysis. A maximum of 25 percent of the total required number of hours of continuing education may be applied from this category during any two-year certification period;

b. required documentation is an attestation signed and dated by the certificant;

c. approval of these events is at the discretion of the board;

4. instruction of continuing education events:

a. instruction by the applicant of a category 1 or 2 continuing education events, on a one-time basis for each event, provided that the applicant was present for the complete event. A maximum of 50 percent of the total required number of hours of continuing education may come from this category during any two-year certification period;

b. required documentation is a letter from the department chair on letterhead from the university at which a course was taught or a letter from the approved continuing education (ACE) provider's coordinator;

5. passing BACB exam:

a. passing, during the second year of the applicant's certification period, the BACB certification examination appropriate to the type of certification being renewed. LBA's may only take the BCBA examination; SCABA's may only take the BCaBA examination for continuing education credit. Passing the appropriate examination shall satisfy the continuing education requirement for the current recertification period;

b. required documentation is a verification letter of passing score from the BACB;

6. scholarly activities:

a. publication of an ABA article in a peer-reviewed journal or service as reviewer or action editor of an ABA article for a peer reviewed journal. A maximum of 25 percent of the total required number of hours of continuing education may come from this category during any two-year certification period. The credit will only be applied to the recertification cycle when the article was published or reviewed:

i. one publication = 8 hr.;

ii. one review = 1 hr.;

b. required documentation is a final publication listing certificant as author, editorial decision letter (for action editor activity), or letter of attestation from action editor (for reviewer activity).

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3713.

HISTORICAL NOTE: Promulgated by the Department of Health, Behavior Analyst Board, LR 42:1514 (September 2016).

§805. Extensions/Exemptions

A. Licensees on extended active military service outside the state of Louisiana during the applicable reporting period and who do not engage in delivering behavior analysis

services within the state of Louisiana may be granted in extension or an exemption if the board receives a timely confirmation of such status.

B. Licensees who are unable to fulfill the requirement because of illness or other personal hardship may be granted an extension or an exemption if timely confirmation of such status is received by the board.

C. Newly licensed behavior analysts or state certified assistant behavior analysts are exempt from continuing professional development requirements for the remainder of the year for which their license or certification is granted.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3713.

HISTORICAL NOTE: Promulgated by the Department of Health, Behavior Analyst Board, LR 42:1514 (September 2016).

§807. Noncompliance

A. Noncompliance shall include, in part, incomplete reports, unsigned reports, failure to file a report, and failure to report a sufficient number of acceptable continuing professional development credits.

B. Failure to fulfill the requirements of the continuing professional development Rule shall cause the license to lapse pursuant to §402 of this Part.

C. If the licensee fails to meet continuing professional development requirements by the appropriate date, the license shall be regarded as lapsed at the close of business December 31 of the year for which the licensee is seeking renewal.

D. The Behavior Analyst Board shall serve written notice of noncompliance on a licensee determined to be in noncompliance. The notice will invite the licensees to request a hearing with the board or its representative to claim an exemption or to show compliance. All hearings shall be requested by the licensee and scheduled by the board in compliance with any time limitations of the Administrative Procedure Act.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3713.

HISTORICAL NOTE: Promulgated by the Department of Health, Behavior Analyst Board, LR 42:1515 (September 2016).

§809. Reinstatement

A. For a period of two years from the date of lapse of the license, the license may be renewed upon proof of fulfilling all continuing professional development requirements applicable through the date of reinstatement and upon payment of all fees due under R.S. 37:3714.

B. After a period of two years from the date of lapse of the license, the license may be renewed by payment of a fee equivalent to the application fee and renewal fee.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3713-3714.

HISTORICAL NOTE: Promulgated by the Department of Health, Behavior Analyst Board, LR 42:1515 (September 2016).

Rhonda Boe
Executive Director

1609#039

RULE

Department of Health Behavior Analyst Board

Ethical Standards
Professional and Ethical Compliance Code
(LAC46:VIII.Chapter 10)

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Louisiana Behavior Analyst Board has promulgated §1001 to provide authority to enforce ethical standards.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part VIII. Behavior Analysts

Chapter 10. Ethical Standards

§1001. Professional and Ethical Compliance Code

A. The Louisiana Behavior Analyst Board incorporates by reference and maintains that licensed behavior analysts, state certified assistant behavior analysts and registered line technicians shall follow the national Behavior Analyst Certification Board's (hereinafter referred to as BACB's) *Professional and Ethical Compliance Code*, approved by the BACB's Board of Directors on August 7, 2014, with an effective date of January 1, 2016. This code serves as the BACB's guide on ethical matters and as the basis for disciplinary complaints and will also be the Louisiana Behavior Analyst Board's (hereinafter referred to as LBAB) guide on ethical matters and as such enforceable by the LBAB. The information regarding the code can be found on the BACB's official web site, bacb.com, under the ethics section.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3704.

HISTORICAL NOTE: Promulgated by the Department of Health, Behavior Analyst Board, LR 42:1515 (September 2016).

Rhonda Boe
Executive Director

1609#040

RULE

Department of Health Behavior Analyst Board

Supervision—State Certified Assistant Behavior Analysts
and Registered Line Technicians (LAC 46:VIII.Chapter 5)

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq, the Louisiana Behavior Analyst Board has repromulgated §501, §502, §503, and §504 and has promulgated §509, §511, §513, §515, and §517 under Subchapter B.

Title 46
PROFESSIONAL AND OCCUPATIONAL
STANDARDS

Part VIII. Behavior Analysts

Chapter 5. Supervision Requirements

Subchapter A. Supervision Requirements for State Certified Assistant Behavior Analysts (SCABA)

§501. Supervision—General

A. A state certified assistant behavior analyst (hereinafter referred to as SCABA) shall assist a licensed behavior analyst (hereinafter referred to as LBA) in the delivery of applied behavior analysis in compliance with all state and federal statutes, regulations, and rules.

B. The SCABA may only perform services under the direct supervision of a LBA as set forth in this Rule.

C. Supervision shall be an interactive process between the LBA and SCABA. It shall be more than peer review or co-signature.

D. There shall be a written supervisory agreement between the LBA and the SCABA that shall address:

1. the domains of competency within which services may be provided by the SCABA; and
2. the nature and frequency of the supervision of the practice of the SCABA by the LBA.

E. A copy of the written supervisory agreement must be maintained by the LBA and the SCABA and made available to the board upon request.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3706-R.S. 37:3708.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Behavior Analyst Board, LR 40:1933 (October 2014), amended by the Department of Health, Behavior Analyst Board, LR 42:1516 (September 2016).

§503. Supervision—Requirements
[Formerly §502]

A. The manner of supervision shall depend on the treatment setting, patient/client caseload, and the competency of the SCABA. At a minimum, for full-time SCABAs, working at least 30 hours per week, a face-to-face supervisory meeting shall occur not less than once every four weeks, with each supervisory session lasting no less than one hour for full-time SCABAs. The qualifying supervision activities may include:

1. direct, real-time observation of the SCABA implementing behavior analytic assessment and intervention procedures with clients in natural environments and/or training others to implement them, with feedback from the supervising LBA; and
2. one-to-one real-time interactions between the supervising LBA and the SCABA to review and discuss assessment procedures, assessment outcomes, possible intervention procedures and materials, data collection procedures, intervention outcome data, modifications of intervention procedures, published research, ethical and professional standards and guidelines, professional development needs and opportunities, and relevant laws, regulations, and policies.

B. More frequent supervisory activities may be necessary as determined by the LBA or SCABA dependent on the level of expertise displayed by the SCABA, the practice setting, and/or the complexity of the patient/client caseload. These additional supervisory activities, however,

do not qualify towards the once per month requirements. The non-qualifying additional supervision activities may include, but are not limited to:

1. real-time interactions between a supervising LBA and a group of SCABAs to review and discuss assessment and treatment plans and procedures, client assessment and progress data and reports, published research, ethical and professional standards and guidelines, professional development needs and opportunities, and relevant laws, regulations, and policies; and

2. informal interactions between supervising LBAs and SCABAs via telephone, electronic mail, and other written communication.

C. Supervision requirements for part-time practice, less than 30 hours per week, may be modified at the discretion of the board upon approval of the submitted plan. Additional modifications of the format, frequency, or duration of supervision may be submitted for approval by the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3706-R.S. 37:3708.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Behavior Analyst Board, LR 40:1933 (October 2014), amended by the Department of Health, Behavior Analyst Board, LR 42:1516 (September 2016).

§505. Supervisor Responsibilities
[Formerly §503]

A. Qualifying supervision shall ensure that the quality of the services provided by the SCABA to his employer and to consumers is in accordance with accepted standards, including the guidelines for responsible conduct for behavior analysts and professional disciplinary and ethical standards for the Behavior Analyst Certification Board or other nation credentialing bodies as approved by the board.

B. Qualifying supervision shall guide the professional development of the SCABA in ways that improve the practitioner's knowledge and skills.

C. The LBA or the supervisor's alternate LBA designee must be available for immediate consultation with the assistant behavior analyst. The supervisor need not be physically present or on the premises at all times.

D. The LBA is ultimately responsible and accountable for client care and outcomes under his clinical supervision. The supervising LBA shall:

1. be licensed by the board as a LBA;
2. not be under restriction or discipline from any licensing board or jurisdiction;
3. not have more than 10 full-time-equivalent SCABAs under his/her supervision at one time without prior approval by the board;
4. provide at least one hour of face-to-face, direct supervision per month per each SCABA.
5. be responsible for all referrals of the patient/client;
6. be responsible for completing the patient's evaluation/assessment. The SCABA may contribute to the screening and/or evaluation process by gathering data, administering standardized tests, and reporting observations. The SCABA may not evaluate independently or initiate treatment before the supervising LBA's evaluation/assessment; and
7. be responsible for developing and modifying the patient's treatment plan. The treatment plan must include goals, interventions, frequency, and duration of treatment. The SCABA may contribute to the preparation,

implementation, and documentation of the treatment plan. The supervising behavior analyst shall be responsible for the outcome of the treatment plan and assigning of appropriate intervention plans to the SCABA within the competency level of the SCABA.

E. Be responsible for developing the patient's discharge plan. The SCABA may contribute to the preparation, implementation, and documentation of the discharge plan. The supervising LBA shall be responsible for the outcome of the discharge plan and assigning of appropriate tasks to the SCABA within the competency level of the SCABA.

F. Ensure that all patient/client documentation becomes a part of the permanent record.

G. Conduct at least one on-site observation per client per month.

H. The supervisor shall ensure that the SCABA provides applied behavior analysis as defined in R.S. 37:3702 appropriate to and consistent with his/her education, training, and experience.

I. Inform the board of the termination in a supervisory relationship within 10 calendar days.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3706-R.S. 37:3708.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Behavior Analyst Board, LR 40:1934 (October 2014), amended by the Department of Health, Behavior Analyst Board, LR 42:1516 (September 2016).

§507. SCABA Responsibilities [Formerly §504]

A. The supervising LBA has the overall responsibility for providing the necessary supervision to protect the health and welfare of the patient/client receiving treatment from an SCABA. However, this does not absolve the SCABA from his/her professional responsibilities. The SCABA shall exercise sound judgment and provide adequate care in the performance of duties. The SCABA shall:

1. not initiate any patient/client treatment program or modification of said program until the behavior analyst has evaluated, established a treatment plan, and consulted with the LBA;

2. not perform an evaluation/assessment, but may assist in the data gathering process and administer specific assessments where clinical competency has been demonstrated, under the direction of the LBA;

3. not analyze or interpret evaluation data;

4. monitor the need for reassessment and report changes in status that might warrant reassessment or referral;

5. immediately suspend any treatment intervention that appears harmful to the patient/client and immediately notify the supervising LBA; and

6. ensure that all patient/client documentation prepared by the SCABA becomes a part of the permanent record;

7. meet these supervision requirements, even if they are not currently providing behavior analysis services. If not currently providing behavior analysis services, supervision from the supervising LBA may focus on guiding the development and maintenance of the SCABA's professional knowledge and skills and remaining current with the professional literature in the field; and

8. inform the board of the termination in a supervisory relationship within 10 calendar days.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3706-R.S. 37:3708.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Behavior Analyst Board, LR 40:1934 (October 2014), amended by the Department of Health, Behavior Analyst Board, LR 42:1517 (September 2016).

Subchapter B. Supervision Requirements for Registered Line Technicians (RLT)

§509. Supervision—General

A. A registered line technician (hereinafter referred to as RLT) shall be responsible for implementing, not designing, the behavior plans designed by their supervising licensed behavior analyst.

B. The RLT may only perform behavior analytic services under the direct supervision of a LBA as set forth in this rule.

C. Supervision can be conducted by either the LBA or SCABA.

D. Supervision shall be an interactive process between the LBA or SCABA and RLT. It shall be more than peer review or co-signature. The supervisor and supervisee should maintain appropriate documentation on all supervision activities.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3706-R.S. 37:3708.

HISTORICAL NOTE: Promulgated by the Department of Health, Behavior Analyst Board, LR 42:1517 (September 2016).

§511. Supervision Requirements

A. The manner of supervision shall depend on the treatment setting, client caseload, and the competency of the RLT. The qualifying supervision must include the following criteria.

1. The LBA must ensure ongoing supervision for a minimum of 5 percent of the hours the RLT spends providing applied behavior-analytic services per month for the clients under their jurisdiction.

2. Supervision must include:

a. at least two face-to-face contacts per month with at least one being real time 1:1 contact;

b. at least one on-site contact with each RLT/client dyad every two months.

3. The LBA may delegate supervisory responsibilities to a SCABA under their direct supervision.

4. Other supervisory activities may include real-time interactions between a supervising LBA or SCABA and a group of RLTs to review and discuss assessment and treatment plans and procedures, client assessment and progress data and reports, published research, ethical and professional standards and guidelines, professional development needs and opportunities, and relevant laws, regulations, and policies.

5. In the case of multiple supervisors, the RLT must be supervised by the LBA or SCABA for the clients assigned under each supervisor's jurisdiction.

6. RLT's who provide substitute services will not be subject to the twice-monthly on-site contact supervisory contact. Substitute services are defined as eight hours or less per client per month. However, it is expected that the RLT will be provided with essential information and assistance pertinent to the client's case. This does not exempt the RLT from the requirement in Paragraph A.1 of this Section for the 5 percent of monthly supervision time.

B. More frequent supervisory activities may be necessary as determined by the LBA, SCABA, or RLT dependent on the level of expertise displayed by the RLT, the practice setting, and/or the complexity of the client caseload. Supervision should occur at a schedule consistent with evidence-based practice and sufficient to ensure competence in the delivery of each of the client's current treatment programs. These additional supervisory activities, however, do not qualify towards minimum supervision requirements. The non-qualifying additional supervision activities may include, but are not limited to, informal interactions between supervising LBA or SCABA and RLT via telephone, electronic mail, and other written or electronic communications.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3706-R.S. 37:3708.

HISTORICAL NOTE: Promulgated by the Department of Health, Behavior Analyst Board, LR 42:1517 (September 2016).

§513. Supervision Documentation

A. All supervision should be documented and must contain a minimum of the client's identifier, RLT's name, date, time, brief description of supervision activities, and initials of both RLT and LBA.

B. All supervision documentation should be kept a minimum of six years.

C. Random audits will be conducted.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3706-R.S. 37:3708.

HISTORICAL NOTE: Promulgated by the Department of Health, Behavior Analyst Board, LR 42:1518 (September 2016).

§515. Supervisor Responsibilities

A. Supervision shall ensure that the quality of the services provided by the RLT to his employer and to consumers is in accordance with accepted standards, including the *Professional and Ethical Compliance Code for Behavior Analysts*, adopted by the Behavior Analyst Certification Board (BACB) board of directors on 08/07/14 and effective as of 01/01/16.

B. Supervision shall guide continuing professional development of the RLT in ways that improve the practitioner's knowledge and skills.

C. It is the responsibility of the designated supervisor to determine which tasks an RLT may perform as a function of his or her training, experience, and competence.

D. The LBA, SCABA, or the supervisor's alternate LBA or SCABA designee must be available for immediate consultation with the RLT. The supervisor need not be physically present or on the premises at all times.

E. The LBA is ultimately responsible and accountable for client care and outcomes under his clinical supervision. The supervising LBA shall:

1. be licensed by the board as a LBA;
2. not be under restriction or discipline from any licensing board or jurisdiction;
3. provide the minimum qualifying supervision requirements as stated in section, however more supervision may be necessary and should be conducted on a schedule consistent with evidence-based practice and sufficient to ensure competence in the delivery of each of the client's current treatment programs;

4. be responsible for all referrals of the client;

5. be responsible for completing the client's evaluation/assessment. The RLT may contribute to the screening and/or evaluation process by gathering data and reporting observations. The RLT may not evaluate independently or initiate treatment before the supervising LBA's evaluation/assessment;

6. be responsible for developing and modifying the client's treatment plan. The treatment plan must include goals, interventions, frequency, and duration of treatment. The RLT may contribute to the preparation, implementation, and documentation of the treatment plan. The supervising behavior analyst shall actively review all aspects of the RLTs contributions and be responsible for the outcome of the treatment plan and assigning of appropriate intervention plans to the RLT within the competency level of the RLT;

7. be responsible for developing the client's discharge plan. The RLT may contribute to the preparation, implementation, and documentation of the discharge plan. The supervising LBA shall be responsible for the outcome of the discharge plan and assigning of appropriate tasks to the RLT within the competency level of the RLT;

8. inform the board of the termination in a supervisory relationship within 10 calendar days;

9. ensure that all client documentation becomes a part of the permanent record; and

10. if a RLT is not currently providing behavior analysis services, proper documentation must be maintained on reasons for not meeting qualifying supervision requirements.

F. The LBA is ultimately responsible and accountable for client care and outcomes under his clinical supervision. The supervising LBA shall:

1. be licensed by the board as a LBA;
2. not be under restriction or discipline from any licensing board or jurisdiction;
3. provide the minimum qualifying supervision requirements as stated in section, however more supervision may be necessary and should be conducted on a schedule consistent with evidence-based practice and sufficient to ensure competence in the delivery of each of the client's current treatment programs;
4. ensure that all client documentation becomes a part of the permanent record; and
5. if a RLT is not currently providing behavior analysis services, proper documentation must be maintained on the reasoning for not meeting qualifying supervision requirements.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3706-R.S. 37:3708.

HISTORICAL NOTE: Promulgated by the Department of Health, Behavior Analyst Board, LR 42:1518 (September 2016).

§517. RLT Responsibilities

A. The supervising LBA has the overall responsibility for providing the necessary supervision to protect the health and welfare of the client receiving treatment from an RLT. However, this does not absolve the RLT from his/her professional responsibilities. The RLT shall exercise sound judgment and provide adequate care in the performance of duties. The RLT shall:

1. be primarily responsible for the direct implementation of skill acquisition and behavior-reduction plans developed by the supervisor;

2. not initiate any client treatment program or modification of said program until the behavior analyst has evaluated, established a treatment plan, and consulted with the LBA;

3. not perform an evaluation/assessment, but may assist in the data gathering process and administer specific assessments where clinical competency has been demonstrated, under the direction of the LBA;

4. not analyze or interpret evaluation data;

5. immediately contact the supervising LBA or SCABA if any treatment intervention that appears harmful to the client;

6. ensure that all client documentation completed by the RLT becomes a part of the permanent record;

7. if they are not currently providing behavior analysis services, proper documentation must be maintained; and

8. inform the board of the termination in a supervisory relationship within 10 calendar days.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3706-R.S. 37:3708.

HISTORICAL NOTE: Promulgated by the Department of Health, Behavior Analyst Board, LR 42:1518 (September 2016).

Rhonda Boe
Executive Director

1609#038

RULE

Department of Health Board of Medical Examiners

Podiatry Licensure and Certification (LAC 46:XLV.1307)

In accordance with the Administrative Procedure Act, R.S. 49:950 et seq., and pursuant to the authority vested in the Louisiana State Board of Medical Examiners (board) by the Medical Practice Act, R.S. 37:1270, and the Louisiana Podiatric Practice Act, R.S. 37:611-628, the board has amended its rules on licensure and certification of podiatrists. The changes, which appear in §1307.D, remove the requirement for board certification/qualification for surgical treatment of the ankle for a podiatrist who has completed three years of a specified residency training program. The changes also reflect a name change in the certifying surgical board within podiatry from the American Board of Podiatric Surgery to the American Board of Foot and Ankle Surgery. The amendments are set forth below.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part XLV. Medical Professions

Subpart 2. Licensure and Certification

Chapter 13. Podiatrists

Subchapter B. Requirements and Qualifications for Licensure, Scope of Practice

§1307. Qualifications for Certification for Advanced Practice; Scope of Practice

A. - C.4. ...

D. Qualifications for Certification in Surgical Treatment of the Ankle. To be eligible for certification in the surgical treatment of the ankle, whether for initial licensure or annual renewal, an applicant who possesses and meets the qualifications and requirements of §1305.A.1-5 of this Chapter shall:

1. have completed a surgical residency approved by the Council on Podiatric Medical Education of the American Podiatric Medical Association, consisting of:

a. a three-year podiatric surgery residency (PSR 36) program or greater; or

b. a three-year podiatric medicine and surgery residency (PM and S 36) program or greater; or

c. a two-year podiatric surgery residency (PSR 24) program and:

i. be board-certified in reconstructive rear foot and ankle surgery (RRA) by the American Board of Foot and Ankle Surgery (ABFAS), formerly the American Board of Podiatric Surgery (APBS); or

ii. be board-certified in foot surgery and board qualified in reconstructive rear foot/ankle surgery (RRA) by the ABFAS.

E. - G. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270 and 37:611-37:628.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 35:241 (February 2009), amended by the Department of Health, Board of Medical Examiners, LR 42:1519 (September 2016).

Eric D. Torres
Executive Director

1609#047

RULE

Department of Health Board of Pharmacy

Medication Synchronization (LAC 46:LIII.2519)

In accordance with the provisions of the Administrative Procedure Act (R.S. 49:950 et seq.) and the Pharmacy Practice Act (R.S. 37:1161 et seq.), the Louisiana Board of Pharmacy has amended §2519 of its rules. In particular, the board is allowing pharmacists to perform medication synchronization services for their patients.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part LIII. Pharmacists

Chapter 25. Prescriptions, Drugs, and Devices

Subchapter B. Prescriptions

§2519. Prescription Refills; Medication Synchronization and Refill Consolidation

A. - B.2. ...

C. Medication Synchronization and Refill Consolidation. These terms refer to a service which a pharmacist may perform for his patient, at the request of the patient, wherein he may proactively adjust the medication dispensing quantity and/or the refill schedule of a prescription in order

to manage the patient's medication therapy, with the goal of improved medication adherence by the patient.

1. For the performance of this service, the pharmacist may adjust the dispensing quantity and/or refill schedule originally ordered by the prescriber; however, the pharmacist shall not exceed the total quantity prescribed [dispensing quantity multiplied by the total number of fills authorized (original plus refills)], or what is otherwise allowed by law.

2. With respect to prescriptions for controlled substances where refills have been authorized, pharmacists may utilize partial fills, as described in §2747.C.5 of the board's rules, but may not exceed the dispensing quantity noted on the original prescription.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 14:708 (October 1988), effective January 1, 1989, amended LR 29:2104 (October 2003), effective January 1, 2004, LR 33:1133 (June 2007), amended by the Department of Health, Board of Pharmacy, LR 42:1519 (September 2016).

Malcolm J. Broussard
Executive Director

1609#074

RULE

Department of Health Bureau of Health Services Financing

Federally Qualified Health Centers
Fluoride Varnish Applications
Delegated Appliers
(LAC 50:XI.10301)

The Department of Health, Bureau of Health Services Financing has amended LAC 50:XI.10301 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.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part XI. Clinic Services

Subpart 13. Federally-Qualified Health Centers

Chapter 103. Services

§10301. Scope of Services

[Formerly §10501]

- A. - C.1.d. ...
- e. registered nurses;
 - f. licensed practical nurses; or
 - g. certified medical assistants.

2. All participating staff must review the Smiles for Life training module for fluoride varnish and successfully pass the post assessment. All staff involved in the varnish application must be deemed as competent to perform the service by the FQHC.

a. Physicians shall maintain a copy of the successfully completed post assessment certificate in their files for review, and shall provide the certificate to the department, or its fiscal intermediary, upon request.

b. Approved delegated appliers of fluoride varnish must also complete the training module and their certificates shall be retained on file locally as evidence of training.

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 30:2328 (October 2004), repromulgated LR 30:2487 (November 2004), amended LR 32:1902 (October 2006), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 37:2629 (September 2011), LR 39:3076 (November 2013), amended by the Department of Health, Bureau of Health Services Financing, LR 42:1520 (September 2016).

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

1609#064

RULE

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

Home and Community-Based Services Waivers
New Opportunities Waiver
Emergency Opportunities
(LAC 50:XXI.13709)

The Department of Health, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities have amended LAC 50:XXI.13709 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.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part XXI. Home and Community-Based Services Waivers

Subpart 11. New Opportunities Waiver

Chapter 137. General Provisions

§13709. Emergency Opportunities

A. Requests for emergency waiver services shall be made through the local governing entities (LGEs) responsible for coordination of services for persons with developmental disabilities. When a request for emergency services is received, the LGE shall complete a standardized screening tool that incorporates standardized operational procedures to determine the priority of the individual's urgency of need in a fair and consistent manner.

B. To be considered for emergency waiver supports, the individual must need long-term supports, not temporary or short-term supports.

1. - 5. Repealed.

C. Effective for dates of service on or after September 20, 2016, an individual must meet the required criteria within the OCDD standardized screening tool in order to qualify for emergency waiver services.

1. Documentation that any one of the following criteria within the OCDD standardized screening tool has been met will qualify an individual for an emergency waiver opportunity:

a. the caregiver is no longer able to provide support and the individual's health and/or safety is placed at risk;

b. the individual has no other support available after the death of a caregiver;

c. the caregiver needs immediate assistance to provide support and maintain the individual's current living situation;

d. the individual has been placed in custody and, as a result, requires essential, community-based supports;

e. the individual requires long term care supports to address imminent risk of incarceration;

f. the individual needs immediate supports to stay in his/her own home;

g. intolerable conditions exist within the residence with an immediate need for a new residential option;

h. the individual's eligibility will expire and/or the individual "ages out" of the program or funding source providing essential supports within the next 90 days; and

i. additional supports are needed to ensure health and safety and/or to keep the individual from being placed in an institutional situation.

D. For individuals who meet the criteria for an emergency waiver opportunity, as determined by the OCDD standardized screening tool, the LGE will forward copies of all documentation used for determination of eligibility for NOW emergency services, including the standardized screening tool, to the appropriate DHH emergency review manager at OCDD.

1. OCDD will verify each qualifying applicant's request for services registry (RFSR) date and assign waiver opportunities in order, based on their protected RFSR dates.

2. In instances when there are more requests than available emergency waiver opportunities, qualifying individuals who have the earliest protected request dates on the NOW RFSR will receive their opportunities first.

3. If there are more applicants than available emergency waiver opportunities, those individuals may reapply when additional emergency waiver opportunities become available.

E. The LGE will keep all of the supporting documentation used to determine whether an applicant has met emergency waiver criteria.

F. Individuals who do not meet the criteria and are denied an emergency waiver opportunity have the right to an administrative appeal.

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 Community Supports and Services, LR 30:1201 (November 2005), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 40:71 (January 2014), amended by the Department of Health, Bureau of Health Services Financing and

the Office for Citizens with Developmental Disabilities, LR 42:1520 (September 2016).

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

1609#065

RULE

Department of Health Bureau of Health Services Financing

Hospice Services (LAC 50:XV.4101)

The Department of Health and Hospitals, Bureau of Health Services Financing, has amended LAC 50:XV.4101 under 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.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part XV. Services for Special Populations

Subpart 3. Hospice

Chapter 41. Prior Authorization

§4101. Prior Authorization of Hospice Services

A. ...

1. The Medicare criteria found in local coverage determination (LCD) hospice determining terminal status (L34538) will be used in analyzing information provided by the hospice to determine if the patient meets clinical requirements for this program.

A.2. - D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 28:1470 (June 2002), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:131 (January 2015), amended by the Department of Health, Bureau of Health Services Financing, LR 42:1521 (September 2016).

Rebekah E. Gee MD, MPH
Secretary

1609#066

RULE

Department of Health Bureau of Health Services Financing

Managed Care for Physical and Behavioral Health
Non-Emergency Medical Transportation
(LAC 50:I.3103)

The Department of Health, Bureau of Health Services Financing has amended LAC 50:I.3103 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.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part I. Administration

Subpart 3. Managed Care for Physical and Behavioral Health

Chapter 31. General Provisions

§3103. Recipient Participation

A. - B. ...

1. Participation in an MCO for the following participants is mandatory for specialized behavioral health and non-emergency medical transportation (NEMT) services (ambulance and non-ambulance) only, and is voluntary for physical health services:

B.1.a. - D. ...

E. Mandatory MCO Populations—Specialized Behavioral Health Services and Non-Emergency Ambulance Services Only

1. The following populations are mandatory enrollees in Bayou Health for specialized behavioral health services and non-emergency ambulance services only:

a. - b. ...

F. Mandatory MCO Populations—Specialized Behavioral Health and NEMT Services (Ambulance and Non-Ambulance) Only

F.1. - I. ...

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 37:1573 (June 2011), amended LR 40:310 (February 2014), LR 40:1096 (June 2014), LR 40:2258 (November 2014), LR 41:929 (May 2015), LR 41:2363 (November 2015), LR 42:754 (May 2016), amended by the Department of Health, Bureau of Health Services Financing, LR 42:1522 (September 2016).

Rebekah E. Gee MD, MPH
Secretary

1609#067

RULE

Department of Health Bureau of Health Services Financing

Nursing Facilities
Reimbursement Methodology
(LAC 50:II.20001)

The Department of Health, Bureau of Health Services Financing has amended LAC 50:II.20001 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.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part II. Nursing Facilities

Subpart 5. Reimbursement

Chapter 200. Reimbursement Methodology

§20001. General Provisions

A. Definitions

Administrative and Operating Cost Component—the portion of the Medicaid daily rate that is attributable to the general administration and operation of a nursing facility.

Assessment Reference Date—the date on the minimum data set (MDS) used to determine the due date and delinquency of assessments. This date is used in the case-mix reimbursement system to determine the last assessment for each resident present in the facility and is included in the quarterly case-mix report.

Base Resident-Weighted Median Costs and Prices—the resident-weighted median costs and prices calculated in accordance with §20005 of this rule during rebase years.

Calendar Quarter—a three-month period beginning January 1, April 1, July 1, or October 1.

Capital Cost Component—the portion of the Medicaid daily rate that is:

- attributable to depreciation;
- capital related interest;
- rent; and/or
- lease and amortization expenses.

Care Related Cost Component—the portion of the Medicaid daily rate that is attributable to those costs indirectly related to providing clinical resident care services to Medicaid recipients.

Case Mix—a measure of the intensity of care and services used by similar residents in a facility.

Case-Mix Index (CMI)—a numerical value that describes the resident's relative resource use within the groups under the resource utilization group (RUG-III) classification system, or its successor, prescribed by the department based on the resident's MDS assessments. Two average CMIs will be determined for each facility on a quarterly basis, one using all residents (the facility average CMI) and one using only Medicaid residents (the Medicaid average CMI).

Case-Mix MDS Documentation Review (CMDR)—a review of original legal medical record documentation on a randomly selected MDS assessment sample. The original legal medical record documentation supplied by the nursing facility is to support certain reported values that resulted in a specific RUG classification. The review of the documentation provided by the nursing facility will result in the RUG classification being supported or unsupported.

Cost Neutralization—refers to the process of removing cost variations associated with different levels of resident case mix. Neutralized cost is determined by dividing a facility's per diem direct care costs by the facility cost report period case-mix index.

Delinquent MDS Resident Assessment—an MDS assessment that is more than 121 days old, as measured by the assessment reference date (ARD) field on the MDS.

Direct Care Cost Component—the portion of the Medicaid daily rate that is attributable to:

- registered nurse (RN), licensed practical nurse (LPN) and nurse aide salaries and wages;
- a proportionate allocation of allowable employee benefits; and
- the direct allowable cost of acquiring RN, LPN and nurse aide staff from outside staffing companies.

Facility Cost Report Period Case-Mix Index—the average of quarterly facility-wide average case-mix indices, carried to four decimal places. The quarters used in this

average will be the quarters that most closely coincide with the facility's cost reporting period that is used to determine the medians. This average includes any revisions made due to an on-site CMDR.

Example: A January 1, 2011-December 31, 2011 cost report period would use the facility-wide average case-mix indices calculated for March 31, 2011, June 30, 2011, September 30, 2011 and December 31, 2011.

Facility-Wide Average Case-Mix Index—the simple average, carried to four decimal places, of all resident case-mix indices based on the last day of each calendar quarter. If a facility does not have any residents as of the last day of a calendar quarter or the average resident case-mix indices appear invalid due to temporary closure or other circumstances, as determined by the department, a statewide average case-mix index using occupied and valid statewide facility case-mix indices may be used.

Final Case-Mix Index Report (FCIR)—the final report that reflects the acuity of the residents in the nursing facility on the last day of the calendar quarter, referred to as the point-in-time.

Index Factor—will be based on the *Skilled Nursing Home without Capital Market Basket Index* published by Data Resources Incorporated (DRI-WEFA), or a comparable index if this index ceases to be published.

MDS Supportive Documentation Guidelines—the department's publication of the minimum medical record documentation guidelines for the MDS items associated with the RUG-III or its successor classification system. These guidelines shall be maintained by the department and updated and published as necessary.

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

Pass-Through Cost Component—includes the cost of property taxes and property insurance. It also includes the provider fee as established by the Department of Health.

Preliminary Case-Mix Index Report (PCIR)—the preliminary report that reflects the acuity of the residents in the nursing facility on the last day of the calendar quarter.

Rate Year—a one-year period from July 1 through June 30 of the next calendar year during which a particular set of rates are in effect. It corresponds to a state fiscal year.

Resident-Day-Weighted Median Cost—a numerical value determined by arraying the per diem costs and total actual resident days of each nursing facility from low to high and identifying the point in the array at which the cumulative total of all resident days first equals or exceeds half the number of the total resident days for all nursing facilities. The per diem cost at this point is the resident-day-weighted median cost.

RUG-III Resident Classification System—the resource utilization group used to classify residents. When a resident classifies into more than one RUG-III, or its successor's group, the RUG-III or its successor's group with the greatest

CMI will be utilized to calculate the facility average CMI and Medicaid average CMI.

Summary Review Results Letter—a letter sent to the nursing facility that reports the final results of the case-mix MDS documentation review and concludes the review.

a. The summary review results letter will be sent to the nursing facility within 10 business days after the final exit conference date.

Supervised Automatic Sprinkler System—a system that operates in accordance with the latest adopted edition of the National Fire Protection Association's *Life Safety Code*. It is referred to hereafter as a *fire sprinkler system*.

Two-Hour Rated Wall—a wall that meets American Society for Testing and Materials International (ASTM) E119 standards for installation and uses two-hour rated sheetrock.

Unsupported MDS Resident Assessment—an assessment where one or more data items that are used to classify a resident pursuant to the RUG-III, 34-group, or its successor's resident classification system is not supported according to the MDS supporting documentation guidelines and a different RUG-III, or its successor, classification would result; therefore, the MDS assessment would be considered "unsupported."

B. Effective for the rate period of July 1, 2015 through June 30, 2016, the department shall suspend the provisions of LAC 50:II.Chapter 200 governing the reimbursement methodology for nursing facilities and impose the following provisions governing reimbursements for nursing facility services.

1. During this time period, no inflation factor will be applied to the base resident day weighted medians and prices calculated as of July 1, 2014.

2. All costs and cost components that are required by rule to be trended forward will only be trended forward to the midpoint of the 2015 state fiscal year (December 31, 2014).

3. The base capital per square foot value, land value per square foot, and per licensed bed equipment value utilized in the calculation of the fair rental value (FRV) component will be set equal to the value of these items as of July 1, 2014.

4. Base capital values for the Bed Buy-Back program (§20012) purposes will be set equal to the value of these items as of July 1, 2014.

5. Nursing facility providers will not have their weighted age totals for the FRV component calculation purposes increased by one year as of July 1, 2015.

6. As of the July 1, 2016 rate setting, nursing facility provider weighted age totals for the FRV component calculation purposes will be increased by two years to account for the suspended year of aging occurring as of the July 1, 2015 rating period.

7. No other provisions of LAC 50:II.Chapter 200 shall be suspended for this time period.

Base Resident—Repealed.

Calendar Quarter—Repealed.

Capital Cost Component—Repealed.

1. - 4. Repealed.

Care Related Cost Component—Repealed.

Case Mix—Repealed.

Case-Mix Index—Repealed.

Case-Mix MDS Documentation Review (CMDR)—Repealed.

Cost Neutralization—Repealed.

Delinquent MDS Resident Assessment—Repealed.

Direct Care Cost Component—Repealed.

1. - 3. Repealed.

Facility Cost Report Period Case-Mix Index—Repealed.

Example. Repealed.

Facility-Wide Average Case-Mix Index—Repealed.

Final Case-Mix Index Report (FCIR)—Repealed.

Index Factor—Repealed.

Minimum Data Set (MDS)—Repealed.

MDS Supportive Documentation Guidelines—Repealed.

Pass-Through Cost Component—Repealed.

Preliminary Case Mix Index Report (PCIR)—Repealed.

Rate Year—Repealed.

Resident-Day-Weighted Median Cost—Repealed.

RUG-III Resident Classification System—Repealed.

Summary Review Results Letter—Repealed.

1. Repealed.

Supervised Automatic Sprinkler System—Repealed.

Two-Hour Rated Wall—Repealed.

Unsupported MDS Resident Assessment—Repealed.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 28:1790 (August 2002), amended LR 28:2537 (December 2002), LR 32:2262 (December 2006), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:825 (March 2012), amended by the Department of Health, Bureau of Health Services Financing, LR 42:1522 (September 2016).

Rebekah E. Gee MD, MPH
Secretary

1609#068

RULE

Department of Health Bureau of Health Services Financing

Professional Services Program
Fluoride Varnish Applications
Delegated Appliers
(LAC 50:IX.905)

The Department of Health, Bureau of Health Services Financing has amended LAC 50:IX.905 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.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part IX. Professional Services Program

Subpart 1. General Provisions

Chapter 9. Fluoride Varnish Application Services

§905. Provider Participation

A. - B.4. ...

5. registered nurses;

6. licensed practical nurses; or

7. certified medical assistants.

C. Professional service providers must review the Smiles for Life training module for fluoride varnish and successfully pass the post assessment.

1. Physicians shall maintain a copy of the successfully completed post assessment certificate in their files for review, and shall provide the certificate to the department, or its fiscal intermediary, upon request.

2. Approved delegated appliers of fluoride varnish must also complete the training module and their certificates shall be retained on file locally as evidence of training.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 40:315 (February 2014), amended by the Department of Health, Bureau of Health Services Financing, LR 42:1524 (September 2016).

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

1609#069

RULE

Department of Health Bureau of Health Services Financing

Rural Health Clinics
Fluoride Varnish Applications
Delegated Appliers
(LAC 50:XI.16301)

The Department of Health, Bureau of Health Services Financing has amended LAC 50:XI.16301 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.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part XI. Clinic Services

Subpart 15. Rural Health Clinics

Chapter 163. Services

§16301. Scope of Services

[Formerly §16501]

A. - C.1.d. ...

e. registered nurses;

f. licensed practical nurses; or

g. certified medical assistants.

2. All participating staff must review the Smiles for Life training module for fluoride varnish and successfully pass the post assessment. All staff involved in the varnish application must be deemed as competent to perform the service by the RHC.

a. Physicians shall maintain a copy of the successfully completed post assessment certificate in their files for review, and shall provide the certificate to the department, or its fiscal intermediary, upon request.

b. Approved delegated appliers of fluoride varnish must also complete the training module and their certificates shall be retained on file locally as evidence of training.

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 32:1905 (October 2006), repromulgated LR 32:2267 (December 2006), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 37:2631 (September 2011), LR 40:83 (January 2014), amended by the Department of Health, Bureau of Health Services Financing, LR 42:1524 (September 2016).

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

1609#070

RULE

Department of Health Office for Citizens with Developmental Disabilities

Certification of Medication Attendants (LAC 48:IX.Chapter 9)

The Office for Citizens with Developmental Disabilities (OCDD) has amended LAC 48:IX.Chapter 9, Guidelines for Certification of Medication Attendants (CMA), in accordance with the Administrative Procedure Act, R.S. 49:950 et seq. R.S. 37:1021-1025 authorizes the establishment of “a medication administration course for the purpose of training and certifying unlicensed personnel to administer certain medication to residents of intermediate care facilities for people with developmental disabilities (ICFs/DD) and community homes for persons with developmental disabilities either operated by the Office for Citizens with Developmental Disabilities (OCDD) or funded through the Department of Health (LDH); and to individuals in the programs/agencies contracting for services with LDH except as prohibited in §911.B.5.”

Based on an opinion given by the Louisiana State Board of Medical Examiners, the Louisiana Department of Health has discontinued the use of physician delegation forms in intermediate care facilities and home and community-based settings. Unlicensed personnel must now complete minimum training requirements in order to administer medication to individuals with intellectual and developmental disabilities. The termination of physician delegation has resulted in a large influx of persons seeking certified medication attendants (CMA) training and certification. This has created an administrative burden to providers, as well as OCDD, to timely process a steadily increasing number of certifications. This is an unfunded training mandate, which incurs significant costs to provider agencies and requires annual continuing education for re-certification. Due to limited funding, provider agencies who cannot afford to maintain the certification will experience a reduction in unlicensed personnel who are qualified to give medication, thus

increasing the risk for medication errors, critical incidents, and mortality for persons who are medically compromised and vulnerable. The Office for Citizens with Developmental Disabilities has extended the certification period for certified medication attendants to two years. Provider agencies are required to determine CMA competency annually during the two-year period.

Also, OCDD will allow CMAs who have not worked directly with medication administration for 24 months or more to be administered the statewide exam and a competency evaluation rather than requiring that they repeat the training. This opportunity will decrease administrative burden and allow qualified persons to more quickly re-enter the work force which will in turn, help assure client health and safety.

Title 48

PUBLIC HEALTH—GENERAL

Part IX. Developmental Disabilities Services

Chapter 9. Guidelines for Certification of Medication Attendant

§901. Overview

A. R.S. 37:1021-1025 authorizes the establishment of a medication administration course for the purpose of training and certifying unlicensed personnel to administer certain medication to residents of intermediate care facilities for people with developmental disabilities (ICFs/DD) and community homes for people with developmental disabilities either operated by the Office for Citizens with Developmental Disabilities (OCDD) or funded through the Department of Health (LDH); and to individuals in programs/agencies contracting for services with LDH except as prohibited in §911.B.5. Persons who successfully complete the certified medication attendant (CMA) course and demonstrate an acceptable level of competency on a written test and a practical examination are eligible for certification as medication attendants. Use of certified medication attendants (CMAs) on the part of private providers that contract with DHH is strictly voluntary.

B. The guidelines establish:

1. - 6. ...

7. role and responsibilities of the Office for Citizens with Developmental Disabilities; and

8. composition and role of Certified Medication Attendant Committee.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1021-1025.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office for Citizens with Developmental Disabilities, LR 21:694 (July 1995), amended by the Department of Health, Office for Citizens with Developmental Disabilities, LR 42:1525 (September 2016).

§903. Definitions

A. For the purpose of these CMA guidelines, the following definitions shall apply.

Abuse (adult/elderly)—the infliction of physical or mental injury, or actions which may reasonably be expected to inflict physical injury, on an adult by other parties, including but not limited to such means as sexual abuse, abandonment, isolation, exploitation, or extortion of funds or other things of value (R.S. 15:503).

Abuse (child)—any of the following acts which seriously endanger the physical, mental, or emotional health and safety of the child:

a. the infliction or attempted infliction, or, as a result of inadequate supervision, the allowance or toleration of the infliction or attempted infliction of physical or mental injury upon the child by a parent or any other person;

b. the exploitation or overwork of a child by a parent or any other person;

c. the involvement of the child in any sexual act with a parent or any other person, or the aiding or toleration by the parent or the caretaker of the child's sexual involvement with any other person or of the child's involvement in pornographic displays, or any other involvement of a child in sexual activity constituting a crime under the laws of this state (*Children's Code*, article 1003).

Authorized Instructor—a registered nurse (RN), with a minimum of one-year experience working with people with developmental disabilities, who has completed the training for instructors, and has a current authorization by OCDD to teach the 60-hour medication attendant course.

CMA Applicant—an employee of an intermediate care facility for people with developmental disabilities or an in-home Medicaid home and community-based service who is enrolled in the 60-hour course curriculum.

Certified Medication Attendant (CMA)—the designation given an employee who has successfully completed the 60-hour course and passed the OCDD initial certification exam and has been issued a certificate by OCDD.

Department—the Department of Health (LDH).

Exploitation (adult/elderly)—the illegal or improper use or management of the funds, assets, or property of a person who is aged or an adult with a disability, or the use of power of attorney or guardianship of a person who is aged or an adult with a disability for one's own profit or advantage (R.S. 15:503).

Extortion (adult/elderly)—the acquisition of a thing of value from an unwilling or reluctant adult by physical force, intimidation, or abuse of legal or official authority (R.S. 15:503).

Falsification of Participant Medical Records—includes, but is not limited to, falsification of time, dosage, date, amount, and documentation of prescribed treatment that did not occur.

Falsification or Alteration of CMA Certificate—includes, but is not limited to, altering expiration date, CMA name, OCDD coordinator's signature, or attempting to use another person's certificate.

HCBS (Home and Community-Based Services)—one or more of the following services:

a. *personal care attendant services*—services required by a person with a disability in order to become physically independent or to remain in or return to the community;

b. *respite care services*—the temporary care and supervision of a person with a disability or an infirm elderly person so that the primary caregiver can be relieved of such duties. Respite care services may be performed either in the home of the person with a disability or infirm elderly person or in a facility owned by the home- and community-based service provider who provides respite care services. For the purposes of this Section, person with a disability shall mean a person with a physical, mental, or medical condition or an adult who requires assistance with activities of daily living;

c. *supervised independent living services*—necessary training, social services, and medical services to enable a person who has mental illness or who has developmental disabilities and who is living in congregate or individual apartments to live as independently as possible in the community;

d. *family support services*—advocacy services, family counseling, including genetic counseling, family subsidy programs, parent-to-parent outreach, legal assistance, income maintenance, parent training, homemaker services, minor home renovations, marriage and family education, and other related programs;

e. *adult day care services*—a group program designed to meet the individual needs of functionally impaired adults which is structured and comprehensive and which provides a variety of health, social, and related support services in a protective setting for a portion of the 24-hour day. The group program shall provide for 10 or more functionally impaired adults who are not related to the owner or operator of the home- and community-based service provider. For the purposes of this Section, *functionally impaired adults* shall mean individuals aged 17 years of age and older who are physically, mentally, or socially impaired to a degree that supervision is necessary;

f. *substitute family care services*—services providing 24-hour personal care, supportive services and supervision to adults who meet the criteria for having a developmental disability;

g. *supported employment*—a system of supports for people with disabilities in regards to ongoing employment in integrated settings. Supported employment can provide assistance in a variety of areas, including:

- i. job development;
- ii. job coaches;
- iii. job retention;
- iv. transportation;
- v. assistive technology;
- vi. specialized job training; and
- vii. individually tailored supervision;

h. *monitored in-home caregiving*—services provided by a principal caregiver to a client who lives in a private unlicensed residence. The principal caregiver shall reside with the client, and shall be contracted by the licensed HCBS provider having a monitored in-home caregiving service module.

Home- and Community-Based Service Provider—an agency, institution, society, corporation, person or persons, or any other individual or group that provides one or more home- and community-based services as defined in this Section. The term *home- and community-based service provider* shall not include any of the following:

a. any person, agency, institution, society, corporation, group, or entity that solely prepares and delivers meals, that solely provides sitter services, or that solely provides housekeeping services;

b. any person, agency, institution, society, corporation, group, or entity who provides gratuitous home- and community-based services;

c. any individual licensed practical nurse or registered nurse who has a current Louisiana license in good standing, and who provides personal nursing services in the

home to an individual, provided that the nurse has contracted with the individual or family for such services and payment of such services;

d. staffing agencies which supply contract workers to a health care provider licensed by the department;

e. any person who is employed as part of a department authorized self-direction program (R.S. 40:2120.2).

ICF/DD (Intermediate Care Facility for People with Developmental Disabilities)—an institution (or distinct part of an institution) that:

a. is primarily for the diagnosis, treatment, or rehabilitation of people with developmental disabilities or persons with related conditions; and

b. provides, in a protected residential setting, ongoing evaluation, planning, 24-hour supervision, coordination, and integration of health or rehabilitative services to help each individual function at his or her greatest ability (CMS 42 CFR 435.1009).

Institutional Abuse or Neglect—any case of child abuse or neglect that occurs in any public or private facility that provides residential child care, treatment, or education (*Children's Code*, article 603).

Misappropriation of Property—to take possession, without permission, of any and all of an individual's personal belongings.

Neglect (adult/elderly)—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. No adult who is being provided treatment in accordance with a recognized religious method of healing in lieu of medical treatment shall, for that reason alone, be considered to be neglected or abused (R.S. 15:503).

Neglect (child)—the refusal or failure of a parent or caretaker to supply the child with necessary food, clothing, shelter, care, treatment, or counseling for any injury, illness, or condition of the child, as a result of which the child's physical, mental, or emotional health and safety is substantially threatened or impaired. Whenever, in lieu of medical care, a child is being provided treatment in accordance with the tenets of a well-recognized religious method of healing which has a reasonable, proven record of success, the child shall not, for that reason alone, be considered to be neglected or abused. Disagreement by the parent regarding the need for medical care shall not, by itself, be grounds for termination of parental rights. However, nothing herein shall prohibit the court from ordering medical services for the child when there is substantial risk of harm to the child's health or welfare (*Children's Code*, article 1003).

Office—the Office for Citizens with Developmental Disabilities (OCDD).

Supports and Services Center—a state ICF/DD operated by the Office for Citizens with Developmental Disabilities.

Waiver Program Services—other services approved by the Centers for Medicare and Medicaid Services for home- and community-based waivers for the Louisiana Medicaid Program.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1021-1025.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office for Citizens with Developmental Disabilities, LR 21:694 (July 1995), amended by the Department of Health, Office for Citizens with Developmental Disabilities, LR 42:1525 (September 2016).

§905. Applicability

A. These guidelines shall apply only for certification of medication attendants who are:

1. employed in intermediate care facilities for people with developmental disabilities (ICFs/DD) operated by the Office for Citizens with Developmental Disabilities;

2. employed in community homes for people with developmental disabilities and/or small or large intermediate care facilities for people with developmental disabilities funded through the Department of Health;

3. employed in program/agencies, except as prohibited by §911.B.5, contracting with the Department of Health for services to people with developmental disabilities; or

4. employed in programs supporting individuals licensed in HCBS services.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1021-1025.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office for Citizens with Developmental Disabilities, LR 21:695 (July 1995), amended by the Department of Health, Office for Citizens with Developmental Disabilities, LR 42:1527 (September 2016).

§907. Qualifications of Applicants to be Medication Attendants

A. Each person accepted to participate in the medication attendant course must be:

1. ...

2. an employee of an intermediate care facility for people with developmental disabilities or an in-home Medicaid home and community-based service provider agency who is enrolled in the 60-hour course curriculum;

3. - 4. ...

5. be free of communicable diseases and in suitable physical and emotional health to administer medications safely;

6. have no known record or history of:

a. - c. ...

d. conviction of a felony or other conviction that bars employment in accordance with R.S. 40:1300.53 or other applicable state law.

B. Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1021-1025.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office for Citizens with Developmental Disabilities, LR 21:695 (July 1995), amended by the Department of Health, Office for Citizens with Developmental Disabilities, LR 42:1527 (September 2016).

§909. Qualifications of Instructors for Certified Medication Attendant Courses

A. A registered nurse (RN) with a minimum of one year of clinical experience as a nurse consultant or a full-time nurse for a provider agency providing services to individuals with developmental disabilities in a day-habilitation facility, state facility, ICF/DD or HCBS setting qualifies as an instructor to teach the 60-hour course consisting of 40-hours

classroom theory and 20 hours of clinical practical. The RN may delegate the 20 hours of practical training to a licensed practical nurse (LPN) with a minimum of one year of clinical experience in a developmental disability setting and knowledge of the course.

B. The RN instructor must complete training offered by the OCDD in the curriculum prior to teaching the course.

C. The DHH/OCDD may offer the medication administration instructor course on at least an annual basis, or as determined by the certified medication attendant committee.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1021-1025.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office for Citizens with Developmental Disabilities, LR 21:695 (July 1995), amended by the Department of Health, Office for Citizens with Developmental Disabilities, LR 42:1527 (September 2016).

§911. Authorized and Prohibited Functions of Certified Medication Attendants

A. Authorized functions of the certified medication attendant:

1. deliver medications ordered by a physician, dentist, or authorized prescriber to individuals for self-administration verifying with the medication administration record, the correct individual, dosage, medication name, route, and time;

2. deliver and administer medications ordered by a physician, dentist, or authorized prescriber to individuals with the supervision of a registered nurse, as defined in LAC 46:XLVII.3703.A, verifying with the medication administration record, the correct individual, dosage, medication name, route, and time;

3. administer oral medications, enemas, douches, ointments, pre-measured oral inhalant aerosols, and suppositories unless otherwise indicated;

4. record in the individual's chart:

a. doses delivered to and/or administered to the individual;

b. effectiveness of the drug;

c. any adverse effect of the drug;

d. appropriate vital signs as indicated by the physician order and/or knowledge of the drug; and

e. may transfer prescribed medication information to a medication administration record (MAR); may transfer medication information using a pre-printed pharmacy label indicating the correct individual, dosage, medication name, route, and time;

5. administer prescribed pro re nata (PRN), or as needed, medications when authorized by a licensed physician, dentist, authorized prescriber, or registered nurse. The authorizing health care professional must document the authorization in writing within 24 hours.

B. Prohibited functions of the certified medication attendant:

1. may not give medications by intramuscular, intravenous, or subcutaneous routes;

NOTE: This does not include finger sticks for routine capillary blood glucose monitoring. The CMA may perform routine capillary blood glucose monitoring for clients who do not require sliding scale insulin. This also does not include epinephrine pen usage for emergency situations.

2. may not administer medications by the oral inhalant aerosol route unless administering a premeasured dosage unit provided by the manufacturer;

3. may not receive or assume responsibility for reducing to writing oral or telephone orders from a physician, dentist, or authorized prescriber;

4. may not alter medication dosages as delivered from the pharmacy unless authorized by a physician, dentist, or authorized prescriber. Alteration of a medication dosage may include giving more or less than the dosage ordered or crushing, cutting or diluting without an order to do so by the physician, dentist or authorized prescriber;

5. may not administer medications in an acute care setting, including those funded by DHH and/or operated by the OCDD;

6. may not administer any medications when there is indication that the medication has been inappropriately dispensed by the pharmacist or mishandled by other persons;

7. may not delegate medication administration to others.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1021-1025.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office for Citizens with Developmental Disabilities, LR 21:695 (July 1995), amended by the Department of Health, Office for Citizens with Developmental Disabilities, LR 42:1528 (September 2016).

§913. Certified Medication Attendant Course Curriculum

A. Each applicant must complete a 60-hour course to become a certified medication attendant.

1. The course curriculum is 40 hours of classroom theory to include at a minimum, instruction in the following topics:

- a. - j. ...
- k. skills-tasks to be completed for competency; and
- l. ...

2. Twenty-hour practical may consist of 10 hours of classroom demonstration and 10 hours on the unit for hands-on experience. The applicant must attain proficiency in the following 26 skill areas, either by actual demonstration, or by verbally demonstrating to the satisfaction of the licensed nurse:

- a. - f. ...
- g. capillary blood glucose monitoring;
- h. - q. ...
- r. taking tympanic temperature;
- s. premeasured transdermal patches;
- t. nasal atomizer;
- u. oral powdered medications;
- v. charting;
- w. crushing tablets;
- x. rectal creams;
- y. premeasured dosage unit provided by the manufacturer of an oral aerosol inhalant;
- z. limited sublingual medications.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1021-1025.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office for Citizens with Developmental Disabilities, LR 21:696 (July 1995), amended by the Department of Health, Office for Citizens with Developmental Disabilities, LR 42:1528 (September 2016).

§915. Certification Requirements and Process

A. CMA certificates issued after rule promulgation will expire two years from the last day of the month that the certificate was printed.

1. ...
2. The CMA applicant must complete the 60-hour course: 40 hours of classroom theory and 20 hours of practical with a minimum of 10 of those hours conducted in the work place.

3. The CMA applicant must demonstrate proficiency in the 26 skill areas to pass the practical portion of the course. An RN or LPN must administer the practical. Proficiency may be either verbal or physical demonstration. A pass/fail grade shall apply.

4. After completion of the 60-hour course, the CMA instructor completes Form CMA-2, initial exam and certification request, and sends it to the regional coordinator to request applicant(s) be scheduled for the written OCDD CMA certification exam. Form CMA-2 must be attached to the Form CMA-1, profile sheet, for each applicant. All forms must be received by the regional coordinator before an exam date can be scheduled.

5. The regional coordinator will:
a. ...
b. notify the central office CMA coordinator to mail or email an electronic version of the exam that cannot be modified to the regional coordinator (The exam consists of 50 questions at 2 points each for a total possible score of 100 points.);

c. - e. ...
f. notify agency about applicants' scores;
g. mail certificates to the agency;
h. assist CMA instructors regarding any questions;
and
i. maintain copies of all forms submitted to the central office coordinator.

6. The central office coordinator will:
a. - a.iii. ...
b. send the regional coordinator the exam scores and certificates.

7. - 8. ...
9. The certificate shall include at least the following:
a. - c. ...
d. an embossed seal;
e. the signature of the assistant secretary of OCDD;
and
f. the official logo for the OCDD.

B. - B.5. Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1021-1025.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office for Citizens with Developmental Disabilities, LR 21:696 (July 1995), amended LR 23:1147 (September 1997), amended by the Department of Health, Office for Citizens with Developmental Disabilities, LR 42:1529 (September 2016).

§917. Re-Certification Requirements and Process

A. Recertification is required every two years. Each CMA must be recertified. The requirements for re-certification are:

1. every two years a CMA must complete a total of nine hours of in-service training. Two of the nine hours must directly relate to the agency's medication administration

policy and procedure. The remaining seven hours of in-service must relate to medication administration. A CMA working in multiple agencies may combine training to meet these requirements with the exception that the two-hour training on agency medication administration policy and procedure is required for each employer. Each agency must have documentation of each CMA's required nine hours of in-service training;

2. annually, the CMA must pass with proficiency, either by physical or verbal demonstration, the 26 skills on the practical checklist. The annual cycle is based on the last day of the month that the certificate was printed. If a CMA changes employers within the certification period and training records are not available for the first year, the new employer must determine competency by assessing the 26 skills upon hire, in addition to meeting these requirements for re-certification.

B. - C. ...

D. The re-certification requirements must be met prior to the month of expiration of the CMA's certification.

E. A CMA who has not worked directly with medication administration in a facility, program, or agency for individuals with developmental disabilities for 24 months or more must take the OCDD CMA state exam again and pass with proficiency the 26 skills checklist. If the CMA does not pass the state exam, then the CMA must repeat the 60-hour course and pass the exam prior to being recertified. Failure to pass the state exam will result in de-certification.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1021-1025.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office for Citizens with Developmental Disabilities, LR 21:697 (July 1995), amended LR 23:1147 (September 1997), amended by the Department of Health, Office for Citizens with Developmental Disabilities, LR 42:1529 (September 2016).

§919. Decertification of Medication Attendants

A. Decertification shall occur under the following conditions:

1. falsification of participant medical records as defined in these regulations;

2. - 6. ...

B. Decertification may occur under the following conditions:

1. failure of CMA to obtain re-certification requirements results in decertification. The CMA may be reinstated if the re-certification requirements are met within six months of expiration of the certificate. During this six-month period the CMA's authorized functions shall be suspended;

2. unsatisfactory performance of CMA reported by a licensed nurse, either RN or LPN, can result in either a temporary suspension of the CMA's medication administration privileges or decertification. The RN may choose to suspend CMA medication administration privileges not to exceed three months and provide training during which time the CMA may administer medications only under RN or LPN direct observation. After completion of designated suspension and training, the RN reserves the right to re-instate medication administration privileges or decertify the CMA. If decertified, the CMA must repeat the 60-hour course and retake the OCDD CMA certification exam. The reinstatement of CMA medication administration

privileges does not extend the expiration date of the certificate.

C. - E.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1021-1025.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office for Citizens with Developmental Disabilities, LR 21:697 (July 1995), amended by the Department of Health, Office for Citizens with Developmental Disabilities, LR 42:1529 (September 2016).

§923. Reciprocity

A. A provider whose employee furnishes documentation as to successful completion of an equivalent medication administration course conducted in another state and meets other criteria stated in these guidelines and successfully passes the 26 skills checklist and the CMA initial certification exam, may on a case-by-case basis be granted reciprocity. The provider agency would complete Form CMA-5, reciprocity request, and mail to the central office OCDD coordinator. The Certified Medication Attendant Committee will review the documentation and determine if the person will be certified as a CMA in Louisiana. If reciprocity is granted, the provider is notified and the central office OCDD coordinator would issue the certificates to the provider.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1021-1025.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office for Citizens with Developmental Disabilities, LR 21:699 (July 1995), amended by the Department of Health, Office for Citizens with Developmental Disabilities, LR 42:1530 (September 2016).

§925. Provider Responsibility

A. There will be no discrimination in selection of medication attendants for reason of race, color, creed, religion, disability, as defined in R.S. 51:2232(11), or national origin.

B. Each provider shall maintain records on each CMA. The records must include:

1. the current monitoring skills checklist required for certification and re-certification;
2. a copy of the current certificate issued to the CMA by the central office coordinator. The second copy must be provided to the CMA;
3. documentation of annual successful completion of the 26 skills checklist and completion every two years of continuing education necessary for re-certification of CMA.

C. The provider shall have policies and procedures in place regarding medication administration processes.

D. The provider is legally responsible for the level of competency of its personnel and for ensuring that unlicensed staff administering medication have successfully completed the medication administration course curriculum. Additionally, the provider is responsible for maintaining re-certification requirements of its CMAs and ensuring that its CMAs perform their functions in a safe manner.

E. The provider is responsible for providing access to RN supervision of staff through employment or through a contract with a registered nurse. This nurse should review all medication errors on a monthly basis.

F. The provider shall conduct thorough employment checks including verification of CMA certification.

G. The provider is responsible for contacting the central office to verify that a CMA is in good standing prior to employing a CMA certified by another provider. The central office coordinator will send the provider Form CMA-6 verifying that the CMA is in good standing. Form CMA-6 must be maintained on file in the provider's records. The CMA would be responsible for providing a copy of his or her certificate to the provider.

H. If a CMA changes employers within the certification period and training records are not available for the first year, the new employer must determine competency by assessing the 26 skills upon hire, in addition to meeting the requirements for re-certification.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1021-1025.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office for Citizens with Developmental Disabilities, LR 21:699 (July 1995), amended by the Department of Health, Office for Citizens with Developmental Disabilities, LR 42:1530 (September 2016).

§927. Office for Citizens with Developmental Disabilities Responsibilities

A. The OCDD shall ensure the integrity of the medication administration course by:

1. - 3. ...
4. administer the tests for initial certification of CMAs;
5. grading the tests for initial certification of CMAs;
6. maintaining the originals of written examinations with scoring;
7. maintaining a roster of nurses who complete the CMA instructor training;
8. issuing certificates;
9. offering an instructor's course;
10. convening the Certified Medication Administration Committee as needed;
11. verifying CMAs are in good standing; and
12. maintaining a CMA registry.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1021-1025.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office for Citizens with Developmental Disabilities, LR 21:700 (July 1995), amended by the Department of Health, Office for Citizens with Developmental Disabilities, LR 42:1530 (September 2016).

§929. The Certified Medication Administration Committee

A. Composition of committee as determined by the assistant secretary of OCDD:

1. authorized CMA instructors;
2. ...
3. two OCDD regional coordinators;
4. an individual or individual's representative (e.g., family member), and
5. other representatives as determined by the office.

B. Responsibilities of the committee:

1. ...
2. review requests for reciprocity status; and

3. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1021-1025.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office for Citizens with Developmental Disabilities, LR 21:700 (July 1995), amended by the Department of Health, Office for Citizens with Developmental Disabilities, LR 42:1530 (September 2016).

Rebekah E. Gee MD, MPH
Secretary

1609#050

RULE

**Department of Public Safety and Corrections
Office of State Police
Transportation and Environmental Safety Section**

Motor Vehicle Inspections (LAC 55.III.803)

The Department of Public Safety and Corrections, Office of State Police, in accordance with R.S. 49:950 et seq., Act 138 of the 2009 Regular Session, and R.S. 32:1304 et seq., has amended rules which remove incorrect Section numbers which were inadvertently included in a recent promulgation of LAC 55:III.803.B.

Title 55

PUBLIC SAFETY

Part III. Motor Vehicles

Chapter 8. Motor Vehicle Inspection

Subchapter A. General

§803. Penalties for Non-Compliance

(Formerly §701)

A. - B. ...

1. allowing uncertified mechanics to inspect;
2. illegal sale of inspection certificates. This shall include the sale of fraudulent MVI certificates, rejection certificates or any insert that is attached to the MVI certificate;
3. involvement in criminal activity of a felony nature;
4. intentionally falsifying a report (written or electronic);
5. intentionally overcharging for inspections.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:1310 and 32:1312 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, LR 21:184 (February 1995), amended LR 38:2550 (October 2012), LR 42:428 (March 2016), amended by the Department of Public Safety and Corrections, Office of State Police, Transportation and Environmental Safety Section, LR 42:1531 (September 2016).

Jason Starnes
Undersecretary

1609#019

Notices of Intent

NOTICE OF INTENT

Department of Agriculture and Forestry Office of Animal Health and Food Safety Board of Animal Health

Feral Swine (LAC 7:XXI.Chapter 13)

In accordance with the Administrative Procedure Act, R.S. 49:950 et seq., notice is hereby given that the Department of Agriculture and Forestry ("department"), through the Office of Animal Health and Food Safety, Board of Animal Health intends to amend LAC 7:XXI.1311, 1313, 1321 and 1323 relative to swine in Louisiana. The requirement that swine be tested negative for pseudorabies and brucellosis is being removed from §§1311, 1313 and 1323. Louisiana is considered free of pseudorabies and brucellosis in domesticated swine therefore testing is no longer required for interstate trading status. The amendments to §1311 clarify procedure which must be followed for a free roaming or feral swine to be able to be reclassified as a domestic swine. The amendments to §1321 reorganize the Rule but do not change the substance of the Rule. Finally, all references to the Livestock Sanitary Board are being replaced with the Board of Animal Health.

Title 7

AGRICULTURE AND ANIMALS

Part XXI. Animals and Animal Health

Chapter 13. Swine

(Formerly Chapter 9)

Subchapter B. Brucellosis and Pseudorabies

§1311. Quarantining, Vaccinating and Testing Swine for Brucellosis and Pseudorabies (Formerly §905)

A. The state veterinarian or his representative shall have the authority to conduct epidemiologic investigations and quarantine of:

1. swine herds in which one or more of the animals are found to be positive to brucellosis or pseudorabies, as determined by the epidemiologist, based on the interpretation of official tests;
2. the herd of origin of swine that have been added to a herd that becomes quarantined because of brucellosis or pseudorabies, if swine have been acquired from said herd of origin within the last 12 months;
3. herds which have received swine from herds found to have brucellosis or pseudorabies.

B. Herds of swine including feedlots, within a 1.5-mile radius of the quarantined herd, will be monitored in accordance with the recommendation of the state veterinarian and/or epidemiologist by either a test of all breeding swine or by an official random sample test.

C. A herd plan and epidemiology report must be completed within 30 days from the date an animal that originated from the herd was found to be a reactor at slaughter. A herd test must be completed within 45 days

from the date an animal that originated from the herd was found to be a reactor at slaughter.

D. To be eligible for release from quarantine due to positive pseudorabies, a swine herd must meet the following requirements.

1. All swine positive to an official pseudorabies test must be tagged with an official reactor tag in the left ear and permitted on Form VS 1-27 to recognized slaughter establishment, rendering plant, or disposed of on the herd premises or other "approved" location by disposal means authorized by applicable state laws within 15 days. All swine, over 6 months of age and a random sampling of any growing/finishing swine which remain in the herd, must be tested negative 30 days or more after removal of reactors. No livestock on the premises shall have shown signs of pseudorabies after removal of reactors.

2. Whole Herd Depopulation. All swine on the premises must be tagged with an official reactor tag in the left ear and permitted on a Form VS 1-27 to a recognized slaughter establishment, rendering plant, or disposed of on the herd premises or other "approved" location by disposal means authorized by applicable state laws. The premises must remain depopulated for 30 days and the herd premises must be cleaned and disinfected with an approved disinfectant prior to putting swine back on the premises.

E. To be eligible for release from quarantine due to positive brucellosis, a swine herd must meet one of the following requirements.

1. All swine positive to an official brucellosis test must be tagged with an official reactor tag in the left ear and permitted on Form VS 1-27 to a recognized slaughter establishment, rendering plant, or disposed of on the herd premises by disposal means authorized by applicable state laws within 15 days.

- a. All swine over six months of age which remain in the herd, must be tested according to an approved herd plan.

- b. A herd may be released from quarantine upon completion of three negative complete herd tests (CHT):

- i. the first test must be completed at least 30 days after removal of the last reactor;

- ii. a second CHT must be conducted 60-90 days following the first CHT;

- iii. a third CHT is required 60-90 days following the second CHT;

- iv. a fourth CHT is required six months after the third CHT.

2. Whole Herd Depopulation

- a. All swine on the premises must be tagged with an official reactor tag in the left ear and permitted on a Form VS 1-27 to a recognized slaughter establishment, rendering plant, or disposed of on the herd premises or other "approved" location by disposal means authorized by applicable state laws.

- b. The premises must remain depopulated for 30 days and the herd premises must be cleaned and disinfected

with an approved disinfectant prior to putting swine back on the premises.

F. All movement from pseudorabies or brucellosis quarantined herds, must be accompanied by a VS Form 1-27, permit for movement of restricted animals, listing the official, individual identification of each animal to be removed.

1. This form must be delivered to an authorized representative at destination.

2. These permits will be issued by a representative of the Board of Animal Health.

G. All exposed swine moving from quarantined premises in interstate or intrastate commerce, must move directly to a recognized slaughter establishment or to an approved swine quarantined feedlot or rendering plant.

H. The use of pseudorabies vaccine is prohibited, except by permission of the state veterinarian.

I. Reclassification of Feral Swine

1. Free-roaming or feral swine may be qualified for reclassification as domestic swine upon completion of the following test protocol.

a. Three consecutive complete herd tests (CHT) for brucellosis and pseudorabies, with negative results, shall be conducted in order to qualify for reclassification.

b. The first test must be completed at least 30 days after removal of the last reactor.

c. A second CHT must be conducted 60-90 days following the first CHT.

d. A third CHT is required 60-90 days following the second CHT.

e. In addition, any sexually intact female swine must also undergo a brucellosis and pseudorabies test, with negative results, not less than 30 days after their initial farrowing.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:2093 and R.S. 3:2135.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Livestock Sanitary Board, LR 16:392 (May 1990), amended LR 18:839 (August 1992), LR 20:1258 (November 1994), LR 23:1493 (November 1997), repromulgated by the Department of Agriculture and Forestry, Office of Animal Health and Food Safety and the Board of Animal Health, LR 40:969 (May 2014), amended by the Department of Agriculture and Forestry, Office of Animal Health and Food Safety, Board of Animal Health, LR 42:391 (March 2016), LR 42:

§1313. Operation of Livestock Auction Markets (Formerly §907)

A. All swine which are sold or offered for sale in livestock auction markets must meet the general requirements of §131 and the following specific pseudorabies/brucellosis requirements.

1. All breeder and feeder swine moving to Louisiana auction markets from farms outside Louisiana must meet the requirements of §131.

2. All swine over six months of age, being sold at Louisiana livestock auction markets must be identified by an official swine back tag, placed on the animals' forehead and an official metal ear tag.

3. The market shall furnish the Board of Animal Health's official representative a copy of each check-in slip, showing the name of the auction market, the date, the name and complete address of each consignor, and the official back tag numbers applied to the consignor's livestock. It

shall be a violation of this regulation for anyone to consign livestock to a Louisiana livestock auction market and give a name and address that is not the name and address of the owner consigning the livestock to the auction market.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:2093.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Livestock Sanitary Board, LR 11:245 (March 1985), amended LR 11:615 (June 1985), amended by the Department of Agriculture and Forestry, Livestock Sanitary Board, LR 16:392 (May 1990), LR 18:839 (August 1992), LR 23:1494 (November 1997), repromulgated by the Department of Agriculture and Forestry, Office of Animal Health and Food Safety and the Board of Animal Health, LR 40:970 (May 2014), LR 42:

Subchapter C. Quarantine Swine Feedlots and Feral Swine Approved Holding Facilities

§1321. Quarantine Swine Feedlots and Feral Swine Approved Holding Facilities (Formerly §909)

A. Permit Required. No person may operate a quarantined swine feedlot or feral swine holding facility without first obtaining a permit from the Board of Animal Health. Any person operating a feedlot or holding facility without a valid permit will be in violation of this regulation and subject to prosecution. Approval for a quarantine swine feedlot or feral swine holding facility may be given after initial inspection by an authorized agent of the Board of Animal Health.

B. Requirements for Operation of Quarantined Swine Feedlots and Approved Feral Swine Holding Facilities

1. All swine must be maintained at a minimum 200 yards from all other domestic swine pens.

2. Complete records must be maintained on all transactions as described in Subsection C of this subsection. These records shall be made available to state-federal personnel upon request.

3. No feral swine shall be comingled with domestic swine unless the facility is operating as a quarantine swine feedlot and all swine movements from the quarantine swine feedlot facility must be directly to a slaughtering establishment operating under approved state or federal meat inspection.

4. Only feral swine may be placed in an approved feral swine holding facility.

5. Quarantine swine feedlots and approved feral swine holding facilities must be fenced with swine-proof fence to prevent any swine from escaping and the fencing must be continually maintained by the owner/operator to prevent escape of swine.

6. Feral swine shall not be fed garbage as per LAC 7:XXI.2305.

7. Each quarantine swine feedlot or feral swine holding facility shall be inspected at least annually by an authorized agent of the Board of Animal Health.

C. Records

1. records shall be generated and maintained by owner/operators of quarantine swine feedlots and approved feral swine holding facilities. The records shall include the following:

a. number of swine placed in and removed from the facility quarterly;

b. trapper/transporter name and license number for feral swine;

- c. weight, color, sex and any applied identification for each animal;
- d. date each animal was placed in and removed from the facility;
- e. parish where feral swine were trapped.

2. All records shall be provided to an authorized agent of the commission upon request. All records shall be maintained for not less than five years.

D. Cancellation of Quarantined Swine Feedlot or Approved Feral Swine Holding Facility Permit

1. A quarantined swine feedlot permit may be canceled upon written notice that the operation does not meet the requirements of this regulation, or the operator of such quarantined swine feedlot has violated the provisions of this regulation in any respect.

2. The board shall give written notice of the cancellation of a quarantined swine feedlot permit to the operator thereof.

3. Any operator of a quarantined swine feedlot whose permit is so canceled may appeal the cancellation thereof by written notice to the board within 10 days of receipt of the notice of cancellation. Any operator of a quarantined swine feedlot who appeals cancellation of his permit shall be entitled to a full hearing before the board, and the decision of the board at such hearing will be final unless the operator appeals to a court of competent jurisdiction.

4. Closure of a Quarantine Swine Feedlot or Approved Feral Swine Holding Facility

a. Upon termination of a permit, the owner/operator may take up to 14 days to dispose of all feral swine at the facility.

b. No person shall release feral swine, or any swine species, into the wild.

c. Cleaning and disinfection of the premises shall be completed immediately upon closure of the facility if required by the Board of Animal Health.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:2093 and R.S. 3:2135.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Livestock Sanitary Board, LR 11:247 (March 1985), amended LR 11:615 (June 1985), repromulgated by the Department of Agriculture and Forestry, Office of Animal Health and Food Safety and the Board of Animal Health, LR 40:970 (May 2014), amended by the Department of Agriculture and Forestry, Office of Animal Health and Food Safety, Board of Animal Health, LR 42:392 (March 2016), LR 42:

Subchapter D. Slaughterhouse Requirements for Identification, Sampling and Records
§1323. Identification of Swine with Official Backtags and the Collection of Blood Samples from Officially Backtagged Swine at Slaughter Establishments under State or Federal Meat Inspection (Formerly §911)

A. Official Backtagging of Swine

1. All swine over six months of age that are not officially tagged when received by a slaughter establishment, under state or federal meat inspection, shall be identified by an official backtag, properly placed. The name and address of the consignor, the name and address of the owner of the herd of origin, (if different from that of the consignor), shall be recorded, along with the official backtag numbers, on

forms provided for this purpose. A copy of the completed form shall be retained by the slaughter establishment for their records; the original is to be furnished to the meat inspector to accompany blood samples to the state-federal livestock diagnostic laboratory.

2. The slaughter establishment shall be responsible for the identification of the animals and for maintaining required records.

B. Records. All records pertaining to the identification of the swine, the name and address of the owner of the herd of origin, (if different from that of the consignor), shall be maintained and made available to representatives of the Board of Animal Health, upon request.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:2093.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Livestock Sanitary Board, LR 16:392 (May 1990), repromulgated by the Department of Agriculture and Forestry, Office of Animal Health and Food Safety and the Board of Animal Health, LR 40:970 (May 2014), LR 42:

Family Impact Statement

The proposed Rule does not have any known or foreseeable impact on family formation, stability, and autonomy. In particular, the proposed Rule has no known or foreseeable impact on:

- 1. the stability of the family;
- 2. the authority and rights of persons regarding the education and supervision of their children;
- 3. the functioning of the family;
- 4. family earnings and family budget;
- 5. the behavior and personal responsibility of children;
- 6. the ability of the family or a local government to perform the function as contained in the proposed Rule.

Poverty Impact Statement

The proposed Rule does not have any known or foreseeable impact on any child, individual or family as defined by R.S. 49:973(B). In particular, there should be no known or foreseeable effect on:

- 1. the effect on household income, assets, and financial security;
- 2. the effect on early childhood development and preschool through postsecondary education development;
- 3. the effect on employment and workforce development;
- 4. the effect on taxes and tax credits;
- 5. the effect on child and dependent care, housing, health care, nutrition, transportation, and utilities assistance.

Small Business Analysis

The proposed Rule will have no adverse impact on small businesses as defined in the Regulatory Flexibility Act.

Provider Impact Statement

The proposed Rule does not have any known or foreseeable impact on providers as defined by HCR 170 of the 2014 Regular Legislative Session. In particular, there should be no known or foreseeable effect on:

- 1. the effect on the staffing level requirements or qualifications required to provide the same level of service;
- 2. the total direct and indirect effect on the cost to the providers to provide the same level of service; or
- 3. the overall effect on the ability of the provider to provide the same level of service.

Public Comments

Interested persons may submit written comments, data, opinions and arguments regarding the proposed Rule. Written submissions must be directed to John Walther, Assistant Commissioner of Animal Health and Food Safety, Department of Agriculture and Forestry, 5825 Florida Blvd., Suite 4000, Baton Rouge, LA 70806 and must be received no later than 12 p.m. on November 4, 2016. No preamble is available.

Mike Strain, DVM
Commissioner

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Feral Swine**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

It is not anticipated that the proposed rule changes will result in any costs or savings to state or local governmental units. The requirements that swine six months of age or older test negative for pseudorabies and brucellosis 30 days prior to sale is being removed from Rules 1311, 1313 and 1323. The amendments to Rule 1311 clarify procedures that must be followed for free roaming or feral swine to be able to be reclassified as a domestic swine. The amendments to Rule 1321 reorganize the rule but do not change the substance of the rule. Finally, all references to the Livestock Sanitary Board are being replaced with the Board of Animal Health.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rules will not result in an increase or decrease in revenue collections to state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The proposed amendment to Rule 1311 may impact persons wishing to reclassify feral swine as domestic swine. In the event a person would like feral swine reclassified, they must bear all potential costs necessary for herd testing and present records to LDAF.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rules are not anticipated to have an effect on competition or employment.

Dane Morgan
Assistant Commissioner
1609#071

Evan Brasseaux
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Board of Elementary and Secondary Education

Bulletin 111—The Louisiana School, District, and State Accountability System (LAC 28:LXXXIII.301 and 611)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education approved for advertisement to revise *Bulletin 111—The Louisiana School, District, and State Accountability System*: §301, School Performance Score Goal; and §611, Documenting a Graduation Index. These proposed changes update the

calculation of 2016-2017 high school progress points due to the phase out of the EXPLORE and PLAN assessments by the assessment vendor, and update exit codes to reflect cohort graduation leaver codes and documentation required for application in the student information system.

**Title 28
EDUCATION**

**Part LXXXIII. Bulletin 111—The Louisiana School, District, and State Accountability System
Chapter 3. School Performance Score Component
§301. School Performance Score Goal**

A. - D.3.c.i. ...

d. For the 2016-2017 school year (2017 SPS), due to the inability to calculate EXPLORE to PLAN progress points due to the elimination of the EXPLORE assessment, the average of EXPLORE to PLAN points earned in the two previous years (2014-2015 and 2015-2016) will be used for the 2016-2017 school year SPS in combination with the points earned based on PLAN to ACT growth in 2016-2017. As in prior years, schools may earn up to 10 points total.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2737 (December 2003), amended LR 31:1512 (July 2005), LR 32:1017 (June 2006), LR 32:2034, 2035 (November 2006), LR 33:424 (March 2007), LR 33:2349 (November 2007), LR 33:2593 (December 2007), LR 34:430 (March 2008), LR 35:639 (April 2009), LR 36:1987 (September 2010), LR 38:3105 (December 2012), LR 39:305 (February 2013), LR 39:1421 (June 2013), LR 39:2441 (September 2013), LR 40:1313 (July 2014), LR 40:2507 (December 2014), LR 41:1481 (August 2015), LR 42:

**Chapter 6. Graduation Cohort, Index, and Rate
§611. Documenting a Graduation Index**

A. Beginning with academic year 2005-2006, all schools are required to maintain the following documentation if the corresponding exit code is used.

Exit Code Documentation		
Code	Descriptions	Required Documentation
07	Death (of student) or permanent incapacitation	Letter from parent or obituary
10	Transferred out of state or country	Request for records from the receiving school (out of state). Request for records or a statement written and signed by the parent. Documentation proving a student was a foreign exchange student.
14	Transferred to approved non-public school (must award high school diplomas)	Request for records from the receiving school
16	Transferred to BESE-approved home study	LDE Approval letter
20	Transferred to Early College Admissions Program	School withdrawal form and request for records from the College or University and proof of full-time enrollment in an academic program

B. - E. ...

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:1024 (June 2006), amended LR 35:639 (April 2009), LR 35:2312 (November 2009), LR 36:2242 (October 2010), LR 36:2841 (December 2010), LR 38:3108 (December 2012), LR 40:1316 (July 2014), LR 42:

Family Impact Statement

In accordance with section 953 and 974 of title 49 of the *Louisiana Revised Statutes*, there is hereby submitted a Family Impact Statement on the Rule proposed for adoption, repeal or amendment. All Family Impact Statements shall be kept on file in the state board office which has adopted, amended, or repealed a Rule in accordance with the applicable provisions of the law relating to public records.

1. Will the proposed Rule affect the stability of the family? No.
2. Will the proposed Rule affect the authority and rights of parents regarding the education and supervision of their children? No.
3. Will the proposed Rule affect the functioning of the family? No.
4. Will the proposed Rule affect family earnings and family budget? No.
5. Will the proposed Rule affect the behavior and personal responsibility of children? No.
6. Is the family or a local government able to perform the function as contained in the proposed Rule? Yes.

Poverty Impact Statement

In accordance with section 973 of title 49 of the *Louisiana Revised Statutes*, there is hereby submitted a Poverty Impact Statement on the Rule proposed for adoption, amendment, or repeal. All Poverty Impact Statements shall be in writing and kept on file in the state agency which has adopted, amended, or repealed a Rule in accordance with the applicable provisions of the law relating to public records. For the purposes of this section, the word "poverty" means living at or below 100 hundred percent of the federal poverty line.

1. Will the proposed Rule affect the household income, assets, and financial security? No.
2. Will the proposed Rule affect early childhood development and preschool through postsecondary education development? Yes.
3. Will the proposed Rule affect employment and workforce development? No.
4. Will the proposed Rule affect taxes and tax credits? No.
5. Will the proposed Rule affect child and dependent care, housing, health care, nutrition, transportation, and utilities assistance? No.

Small Business Analysis

The impact of the proposed Rule on small businesses as defined in the Regulatory Flexibility Act has been considered. It is estimated that the proposed action is not expected to have a significant adverse impact on small businesses. The agency, consistent with health, safety, environmental and economic welfare factors has considered and, where possible, utilized regulatory methods in the drafting of the proposed Rule that will accomplish the objectives of applicable statutes while minimizing the adverse impact of the proposed Rule on small businesses.

Provider Impact Statement

The proposed Rule should not have any known or foreseeable impact on providers as defined by HCR 170 of 2014 Regular Legislative Session. In particular, there should be no known or foreseeable effect on:

1. the effect on the staffing level requirements or qualifications required to provide the same level of service;

2. the total direct and indirect effect on the cost to the providers to provide the same level of service; or

3. the overall effect on the ability of the provider to provide the same level of service.

Public Comments

Interested persons may submit written comments via the U.S. Mail until 4:30 p.m., October 9, 2016, to Shan N. Davis, Board of Elementary and Secondary Education, P.O. Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Shan N. Davis
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Bulletin 111—The Louisiana School, District, and State Accountability System

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed policy revisions will have no effect on costs or savings to state or local governmental units.

The proposed revisions update the calculation of 2016-2017 high school progress points due to the phase out of the EXPLORE and PLAN assessments by the assessment vendor, and update exit codes to reflect cohort graduation leaver codes and documentation required for application in the Student Information System.

Further, the proposed changes update and condense the exit code table to include only the exits that are used to identify cohort graduation legitimate leavers and the documentation that should be available upon audit of the codes.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

This policy 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)

There will be no estimated cost and/or economic benefit to directly affected persons or non-governmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This policy will have no effect on competition and employment.

Beth Scioneaux
Deputy Superintendent
1609#041

Evan Brasseaux
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Board of Elementary and Secondary Education

Bulletin 137—Louisiana Early Learning
Center Licensing Regulations (LAC 28:CLXI.1921)

The Board of Elementary and Secondary Education (BESE) has exercised the emergency provision in accordance with R.S. 49:953(B), the Administrative Procedure Act, and R.S. 17.6 to amend LAC 28:CLXI, *Bulletin 137—Louisiana Early Learning Center Licensing Regulations*: §1921, Emergency Preparedness and Evacuation Planning.

The revisions are being proposed pursuant to federal requirements within Louisiana child care and development fund state plan, submitted in March 2016, and in order to meet the federal requirements within the child care development fund state plan.

**Title 28
EDUCATION**

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

**Chapter 19. Minimum Health, Safety, and
Environment Requirements and
Standards**

**§1921. Emergency Preparedness and Evacuation
Planning**

A. Emergency and Evacuation Plan. The director shall consult with appropriate state and local authorities and shall establish and follow a written multi-hazard emergency and evacuation plan to protect children in the event of emergencies that at a minimum shall:

1. - 10. ...

11. Practice drills shall be conducted at least twice per year to include all children and shall be documented.

B. - E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:407.40(A)(1).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:641 (April 2015), effective July 1, 2015, amended LR 41:2108 (October 2015), LR 42:

Family Impact Statement

In accordance with section 953 and 974 of title 49 of the Louisiana Revised Statutes, there is hereby submitted a Family Impact Statement on the Rule proposed for adoption, repeal or amendment. All Family Impact Statements shall be kept on file in the state board office which has adopted, amended, or repealed a Rule in accordance with the applicable provisions of the law relating to public records.

1. Will the proposed Rule affect the stability of the family? No.

2. Will the proposed Rule affect the authority and rights of parents regarding the education and supervision of their children? No.

3. Will the proposed Rule affect the functioning of the family? No.

4. Will the proposed Rule affect family earnings and family budget? No.

5. Will the proposed Rule affect the behavior and personal responsibility of children? No.

6. Is the family or a local government able to perform the function as contained in the proposed Rule? Yes.

Poverty Impact Statement

In accordance with section 973 of title 49 of the Louisiana Revised Statutes, there is hereby submitted a Poverty Impact Statement on the Rule proposed for adoption, amendment, or repeal. All Poverty Impact Statements shall be in writing and kept on file in the state agency which has adopted, amended, or repealed a Rule in accordance with the applicable provisions of the law relating to public records. For the purposes of this section, the word "poverty" means living at or below 100 percent of the federal poverty line.

1. Will the proposed Rule affect the household income, assets, and financial security? No.

2. Will the proposed Rule affect early childhood development and preschool through postsecondary education development? No.

3. Will the proposed Rule affect employment and workforce development? No.

4. Will the proposed Rule affect taxes and tax credits? No.

5. Will the proposed Rule affect child and dependent care, housing, health care, nutrition, transportation, and utilities assistance? No.

Small Business Analysis

The impact of the proposed Rule on small businesses as defined in the Regulatory Flexibility Act has been considered. It is estimated that the proposed action is not expected to have a significant adverse impact on small businesses. The agency, consistent with health, safety, environmental and economic welfare factors has considered and, where possible, utilized regulatory methods in the drafting of the proposed Rule that will accomplish the objectives of applicable statutes while minimizing the adverse impact of the proposed Rule on small businesses.

Provider Impact Statement

The proposed Rule should not have any known or foreseeable impact on providers as defined by HCR 170 of 2014 Regular Legislative Session. In particular, there should be no known or foreseeable effect on:

1. the effect on the staffing level requirements or qualifications required to provide the same level of service;

2. the total direct and indirect effect on the cost to the providers to provide the same level of service; or

3. the overall effect on the ability of the provider to provide the same level of service.

Public Comments

Interested persons may submit written comments via the U.S. Mail until 4:30 p.m., October 9, 2016, to Shan N. Davis, Board of Elementary and Secondary Education, P.O. Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Shan N. Davis
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

**RULE TITLE: Bulletin 137—Louisiana Early Learning
Center Licensing Regulations**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO
STATE OR LOCAL GOVERNMENT UNITS (Summary)**

The proposed policy revisions will have no effect on costs or savings to state or local governmental units.

The revisions increasing the number of practice drills as part of emergency preparedness plans are being proposed pursuant to the Louisiana Child Care and Development Fund State Plan, submitted in March 2016, in order to meet federal requirements.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE
OR LOCAL GOVERNMENTAL UNITS (Summary)**

This policy 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)

There will be no estimated cost and/or economic benefit to directly affected persons or non-governmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This policy will have no effect on competition and employment.

Beth Scioneaux
Deputy Superintendent
1609#042

Evan Brasseaux
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Board of Elementary and Secondary Education

Bulletin 139—Louisiana Child Care and Development Fund Programs (LAC 28:CLXV.309, 311, 313, 321, 509, and 511)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education approved for advertisement to revise *Bulletin 139—Louisiana Child Care and Development Fund Programs*: §309, Specific Certification and Registration Requirements for Family Child Care Providers; §311, Specific Certification Requirements for In-Home Child Care Providers; §313, Specific Certification Requirements for Public School and BESE-approved Nonpublic School Child Care Centers; §321, Revocation or Refusal of Renewal of Certification and Ineligibility Periods for Providers; §509, Certification Requirements for Non-Categorically Eligible Households; and §511, Household Certification Period. The proposed revisions align the Louisiana Child Care Assistance Program (CCAP) with federal requirements and revise CCAP work and job training requirements.

**Title 28
EDUCATION**

Part CLXV. Bulletin 139—Louisiana Child Care and Development Fund Programs

Chapter 3. CCAP Provider Certification

§309. Specific Certification and Registration

Requirements for Family Child Care Providers

A. To be certified as a CCAP provider, in addition to the requirements in §305 of this Part, a family child care provider must meet the following requirements, which include but are not limited to the requirements for registration as a family child care provider pursuant to R.S. 17:407.61 et seq.

1. - 9. ...

10. Pre-Service Orientation Training. Complete the following training prior to initial certification, maintain documentation verifying completion of the training, and submit the documentation with the application for certification to the department:

a. a four-hour training that includes, at a minimum, information on recordkeeping, recognizing signs of child abuse, child abuse prevention and mandatory reporting of suspected cases of child abuse or neglect, communicating with parents, age appropriate activities for young children, child development, child safety and nutritional needs of children;

b. training that includes information on the following:

- i. prevention and control of infectious disease;
- ii. immunization schedules and requirements;
- iii. prevention of sudden infant death syndrome and use of safe sleeping practices;

iv. prevention of and response to emergencies due to food and allergic reactions; and

v. prevention of shaken baby syndrome and abusive head trauma;

c. if medication is administered to children in care, medication administration training completed with a qualified health and safety professional, a child care health consultant, approved by DHH to provide training, consultation, and technical assistance to child care providers on health and safety topics every two years.

11. Annual Training. Annually complete 12 clock hours of training in safety and health topics and job-related subject areas approved by the department. Documentation verifying completion of the required training shall be maintained by the provider and made available for inspection upon request by the department. Pre-service orientation training counts toward the annual training requirement in the certification period taken.

12. - 16. ...

17. Emergency Preparedness Disaster Plan. Develop, practice and train on, and follow, a written emergency preparedness disaster plan that includes at a minimum:

a. procedures for evacuation, relocation, shelter-in-place, lock-down, communication and reunification with families, continuity of operations, accommodation of infants and toddlers, children with disabilities, and children with chronic medical conditions;

b. procedures for all adults living in, or working in the residence where care is provided, or working on the property where care is provided; and

c. appropriate emergency phone numbers, such as fire and police, hospitals and Louisiana Poison Control, and the physical address and phone number for the residence in which care is provided posted in a prominent, easily visible location.

A.18. - B. ...

AUTHORITY NOTE: Promulgated in accordance with 45 CFR Part 98 and R.S. 17:407.26.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:2111 (October 2015), amended LR 42:

§311. Specific Certification Requirements for In-Home Child Care Providers

A. To be certified as a CCAP provider, in addition to the requirements in §305, an in-home care provider must meet the following requirements which include, but are not limited to, the requirements for registration as an in-home provider pursuant to R.S. 17:407.61 et seq.

1. - 8. ...

9. Pre-Service Orientation Training. Complete the following training prior to initial certification, maintain documentation verifying completion of the training and submit the documentation with the application for certification to the department:

a. a four-hour training that includes at a minimum, information on recordkeeping, recognizing signs of child

abuse, child abuse prevention and mandatory reporting of suspected cases of child abuse or neglect, communicating with parents, age appropriate activities for young children, child development, child safety and nutritional needs of children;

b. training that includes information on the following:

- i. prevention and control of infectious disease;
- ii. immunization schedules and requirements;
- iii. prevention of sudden infant death syndrome and use of safe sleeping practices;
- iv. prevention of and response to emergencies due to food and allergic reactions; and
- v. prevention of shaken baby syndrome and abusive head trauma; and

c. if medication is administered to children in care, medication administration training completed with a qualified health and safety professional, a child care health consultant, approved by DHH to provide training, consultation, and technical assistance to child care providers on health and safety topics every two years.

10. Annual Training. Annually complete 12 clock hours of training in safety and health topics and job-related subject areas approved by the department. Documentation verifying completion of the required training shall be maintained by the provider and made available for inspection upon request by the department. Pre-service orientation training counts toward the annual training requirement in the certification period taken.

11. - 15. ...

16. Emergency Preparedness Disaster Plan. Develop, practice and train on, and follow, a written emergency preparedness disaster plan that includes at a minimum:

a. procedures for evacuation, relocation, shelter-in-place, lock-down, communication and reunification with families, continuity of operations, accommodation of infants and toddlers, children with disabilities, and children with chronic medical conditions; and

b. procedures for all adults living in, or working in the residence where care is provided, or working on the property where care is provided;

c. appropriate emergency phone numbers, such as fire and police, hospitals and Louisiana Poison Control, and the physical address and phone number for the residence in which care is provided posted in a prominent, easily visible location.

A.17. - B. ...

AUTHORITY NOTE: Promulgated in accordance with 45 CFR Part 98 and R.S. 17:407.26.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:2112 (October 2015), amended LR 42:

§313. Specific Certification Requirements for Public School and BESE-approved Nonpublic School Child Care Centers

A. To be certified as a CCAP provider, a public or BESE-approved nonpublic school day care center must meet the requirements in §305, and in addition, a BESE-approved nonpublic school day care center must also be *Brumfield v. Dodd*-approved.

B. Emergency Preparedness Disaster Plan. Develop, practice and train on, and follow, a written emergency preparedness disaster plan that includes at a minimum:

1. procedures for evacuation, relocation, shelter-in-place, lock-down, communication and reunification with families, continuity of operations, accommodation of infants and toddlers (if applicable), children with disabilities, and children with chronic medical conditions;

2. procedures for staff and volunteer emergency preparedness training and practice drills; and

3. appropriate emergency phone numbers, such as fire and police, hospitals and Louisiana Poison Control, and the physical address and phone number for the facility in which care is provided posted in a prominent, easily visible location.

C. Pre-Service Orientation. Provider has in place pre-service orientation, and procedures and training included in other applicable BESE Bulletins on the following safety and health topics:

1. prevention and control of infectious diseases (including immunization);

2. prevention of sudden infant death syndrome and use of safe sleeping practices, if applicable;

3. administration of medication, consistent with standards for parental consent;

4. prevention of and response to emergencies due to food and allergic reactions;

5. building and physical premises safety, including identification of and protection from hazards that can cause bodily injury such as electrical hazards, bodies of water, and vehicular traffic;

6. prevention of shaken baby syndrome and abusive head trauma, if applicable;

7. emergency preparedness and response planning for emergencies resulting from a natural disaster, or a man-caused event;

8. handling and storage of hazardous materials and the appropriate disposal of bio contaminants;

9. precautions in transporting children (if applicable);

10. first aid and cardiopulmonary resuscitation (CPR).

D. Inspections. Allow inspection of the facility where care is provided by department staff and other authorized inspection personnel during normal working hours and when children are in care.

E. Monitoring. Department will monitor compliance at a minimum annually.

AUTHORITY NOTE: Promulgated in accordance with 45 CFR Part 98 and R.S. 17:407.26.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:2113 (October 2015), amended LR 42:

§321. Termination or Refusal of Renewal of Certification and Ineligibility Periods for Providers

A. The department may terminate or refuse renewal of a provider's certification and impose a period of ineligibility on the provider for program violations, which include but are not limited to the following:

1. - 9. ...

B. When certification is terminated or renewal is refused, the department shall provide written notice to the provider of the termination or denial of renewal, and of the provider's ineligibility period, which may be 12 months, 24 months, or permanently.

C. Where the department determines a violation need not result in the termination of or refusal to renew the provider's certification, the department may:

1. for the first violation, issue a written notice of violation that informs provider that continued or additional violations may result in the termination or refusal to renew certification and a period of ineligibility;

2. for the second violation, issue a second written notice of violation that includes a corrective action plan (CAP) that outlines the required actions that must be implemented or completed immediately and notice that failure to timely complete the CAP or additional or continued violations may result in the termination or refusal to renew certification and a period of ineligibility; and

3. for the third violation, terminate certification and impose a period of ineligibility of 12 months, 24 months or permanently.

D. If certification is terminated or renewal is refused, the action shall become effective when the provider is notified in writing. The written notice shall give the reason for termination or refusal to renew certification.

AUTHORITY NOTE: Promulgated in accordance with 45 CFR Part 98 and R.S. 17:407.26.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:2114 (October 2015), amended LR 42:

Chapter 5. CCAP Household Eligibility

§509. Certification Requirements for Non-Categorically Eligible Households

A. To be certified as a CCAP household, households that are not categorically eligible for participation in CCAP must meet the following requirements:

1. - 4. ...

5. training or employment activities.

a. Unless disabled as established by receipt of Social Security Administration disability benefits, supplemental security income, Veterans' Administration disability benefits for a disability of at least 70 percent, or unless disabled and unable to care for his or her child(ren), as verified by a doctor's statement or by worker determination, the head of household must meet the training or employment activity requirements of:

i. being employed for a minimum average of 20 hours per week and all countable employment hours must be paid at least at the federal minimum hourly wage;

ii. attending a job training or educational program for a minimum average of 20 hours per week (attendance at a job training or educational program must be verified, including the expected date of completion); or

iii. being enrolled as a full-time student in an education or training program resulting in a degree or certificate designed to promote job skills and employability. Full-time status is determined by the institution, which must be accredited by the state of Louisiana or a national organization:

(a). the LDE shall review documentation provided by the institution and verify that it is an education

or training program providing degrees or certificates designed to promote job skills and employability. Full-time status at an institution that does not promote job skills and employability may not meet the activity requirements of this Paragraph;

iv. being engaged in some combination of employment which is paid at least at the federal minimum hourly wage, or job training, or education as defined in Subparagraph b of this Paragraph that averages at least 20 hours per week.

b. Exception. The employment and training activity requirements provided in this Paragraph may be waived for a period of one year from the effective date of certification of eligibility for parents or persons acting as parents who are experiencing homelessness and who demonstrate that they are seeking employment or participating in a transitional living program as defined in §103. There is a one-year lifetime maximum for this exception.

c. Exception. If the number of children served drops below 12,500 and funding is available, the 20-hour training or employment requirement referenced in this Section may be reduced by the department until 12,500 children are being served.

d. Exception. The employment and training activity requirements provided in this Paragraph may be reduced to an average of 15 hours per week for households that qualify for special needs child care.

e. The department shall conduct analysis of the impact of training and employment requirements on child care participation and workforce participation and shall produce a report with policy recommendations no later than August 2019.

AUTHORITY NOTE: Promulgated in accordance with 45 CFR Parts 98 and 99, and R.S. 17:407.28.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 42:43 (January 2016), amended LR 42:

§511. Household Certification Period

A. Eligible households may be certified for up to 24 months except as provided in Subsection B and Subsection C of this Section.

B. Households relying on the exception to eligibility requirements for parents and persons acting as parents who are experiencing homelessness, as provided in §509.A.5.b, and that have the 20 hours per week employment and training requirement waived, may be certified for up to one year.

C. A graduated phase-out of assistance for families whose income has increased at the time of redetermination, but remains below the federal threshold of 85 percent of state median income will receive two additional months of assistance.

AUTHORITY NOTE: Promulgated in accordance with 45 CFR Parts 98 and 99, and R.S. 17:407.28.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 42:44 (January 2016), amended LR 42:

Family Impact Statement

In accordance with section 953 and 974 of title 49 of the *Louisiana Revised Statutes*, there is hereby submitted a Family Impact Statement on the Rule proposed for adoption, repeal or amendment. All Family Impact Statements shall be

kept on file in the state board office which has adopted, amended, or repealed a Rule in accordance with the applicable provisions of the law relating to public records.

1. Will the proposed Rule affect the stability of the family? No.

2. Will the proposed Rule affect the authority and rights of parents regarding the education and supervision of their children? No.

3. Will the proposed Rule affect the functioning of the family? No.

4. Will the proposed Rule affect family earnings and family budget? No.

5. Will the proposed Rule affect the behavior and personal responsibility of children? No.

6. Is the family or a local government able to perform the function as contained in the proposed Rule? Yes.

Poverty Impact Statement

In accordance with section 973 of title 49 of the *Louisiana Revised Statutes*, there is hereby submitted a Poverty Impact Statement on the Rule proposed for adoption, amendment, or repeal. All Poverty Impact Statements shall be in writing and kept on file in the state agency which has adopted, amended, or repealed a Rule in accordance with the applicable provisions of the law relating to public records. For the purposes of this Section, the word "poverty" means living at or below 100 percent of the federal poverty line.

1. Will the proposed Rule affect the household income, assets, and financial security? No.

2. Will the proposed Rule affect early childhood development and preschool through postsecondary education development? Yes.

3. Will the proposed Rule affect employment and workforce development? No.

4. Will the proposed Rule affect taxes and tax credits? No.

5. Will the proposed Rule affect child and dependent care, housing, health care, nutrition, transportation, and utilities assistance? No.

Small Business Analysis

The impact of the proposed Rule on small businesses as defined in the Regulatory Flexibility Act has been considered. It is estimated that the proposed action is not expected to have a significant adverse impact on small businesses. The agency, consistent with health, safety, environmental and economic welfare factors has considered and, where possible, utilized regulatory methods in the drafting of the proposed Rule that will accomplish the objectives of applicable statutes while minimizing the adverse impact of the proposed Rule on small businesses.

Provider Impact Statement

The proposed Rule should not have any known or foreseeable impact on providers as defined by HCR 170 of 2014 Regular Legislative Session. In particular, there should be no known or foreseeable effect on:

1. the effect on the staffing level requirements or qualifications required to provide the same level of service;

2. the total direct and indirect effect on the cost to the providers to provide the same level of service; or

3. the overall effect on the ability of the provider to provide the same level of service.

Public Comments

Interested persons may submit written comments via the U.S. Mail until 4:30 p.m., October 9, 2016, to Shan N. Davis, Board of Elementary and Secondary Education, P.O. Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Shan N. Davis
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Bulletin 139—Louisiana Child Care and Development Fund Programs

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There will be an increase in Child Care Assistance Program (CCAP) payments made by the Louisiana Department of Education (LDE) to child care providers on behalf of eligible children of those families who meet the new definition of full time employment, who qualify under the student status, or who are eligible for additional payments under the graduated phase out period. CCAP subsidies are funded through the federal Child Care and Development Fund. The extent of the increase is indeterminable and will depend upon the number of eligible families approved for the subsidy under these new parameters.

The proposed revisions align the Louisiana Child Care Assistance Program (CCAP) with federal requirements and revise CCAP work and job training requirements. Full time employment is now defined as an average 20 hours per week, down from 30; and full time student status for certain degree/certificate programs may also qualify for participation. Finally, changes provide for a graduated phase out of assistance for certain families.

The revisions also require child care providers to expand emergency planning to develop, practice, and train on a written emergency disaster plan, and provide for specific components of such plans. Finally, the changes require that certain orientation training be completed prior to initial certification rather than within six months of initial certification.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

This policy 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)

There will be a benefit for those families which may qualify for CCAP subsidies under the new work/student status criteria and for those which may receive continued benefits under a graduated phase out.

The impacts of a more expansive emergency disaster plan and training on child care providers is indeterminable since providers are already required to have emergency planning. Depending upon their existing resources, some providers may require outside assistance in developing new plans containing the required detailed procedures. Local resources and expertise may be available from local emergency response organizations and Resource and Referral agencies, which provide support and assistance. However, to the extent these resources are insufficient to meet the demand, providers may seek other assistance, any associated costs of which are unknown.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT
(Summary)

This policy will have no effect on competition and employment.

Beth Scioneaux
Deputy Superintendent
1609#043

Evan Brasseaux
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Board of Elementary and Secondary Education

Bulletin 741—Louisiana Handbook for
School Administrators—TOPS University Diploma
(LAC 28:CXV.2318)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education (BESE) approved for advertisement to revise *Part CXV, Bulletin 741—Louisiana Handbook for School Administrators*: §2318, The TOPS University Diploma. In accordance with Act 303 of the 2016 Regular Legislative Session, the proposed revisions provide for a student with a disability, as defined in Bulletin 1706, who is no longer enrolled in public schools and who previously failed to receive a high school diploma or was denied graduation solely for failing to meet the exit examination requirements to petition the local school board to determine if the student is eligible to receive a high school diploma. The deadline for petition is December 31, 2017.

Title 28

EDUCATION

**Part CXV. Bulletin 741—Louisiana Handbook for
School Administrators**

Chapter 23. Curriculum and Instruction

Subchapter A. Standards and Curricula

§2318. The TOPS University Diploma

A. - C.6.a.vi. ...

D. Exceptions for Certain Students with Exceptionalities

1. A person who is no longer enrolled in a public school but was identified as a student with an exceptionality as defined in R.S. 17:1942(B), except a gifted or talented student, and who previously failed to receive a high school diploma or was denied graduation solely for failing to meet the exit examination requirements pursuant to state Board of Elementary and Secondary Education rules, regulations, or policy may petition the applicable city, parish, or other local public school board to determine eligibility to receive a high school diploma pursuant to this Subsection.

2. Petitions made pursuant to this Subsection shall be submitted to the local school board by no later than December 31, 2017.

3. A person receiving a diploma pursuant to this Section shall not be counted as a graduate in any graduation rate calculations for affected schools and districts, including calculations for any prior year. A petition shall be submitted to the local school board by December 31, 2017.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:7, R.S. 17:24.4, R.S. 17:183.2, and R.S. 17:395.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1291 (June 2005), amended LR 31:2211 (September 2005), LR 31:3070 (December

2005), LR 31:3072 (December 2005), LR 32:1414 (August 2006), LR 33:429 (March 2007), LR 33:432 (March 2007), LR 33:2050 (October 2007), LR 33:2354 (November 2007), LR 33:2601 (December 2007), LR 34:1607 (August 2008), LR 36:1486 (July 2010), LR 37:547 (February 2011), LR 37:1128 (April 2011), LR 37:2129 (July 2011), LR 37:2132 (July 2011), LR 37:3193 (November 2011), LR 38:754, 761 (March 2012), LR 38:1001 (April 2012), LR 38:1584 (July 2012), LR 40:994 (May 2014), LR 40:1328 (July 2014), LR 40:1679 (September 2014), LR 40:2525 (December 2014), LR 41:915 (May 2015), LR 41:1482 (August 2015), LR 41:2126 (October 2015), LR 42:232 (February 2016), LR 42:

Family Impact Statement

In accordance with section 953 and 974 of title 49 of the *Louisiana Revised Statutes*, there is hereby submitted a Family Impact Statement on the Rule proposed for adoption, repeal or amendment. All Family Impact Statements shall be kept on file in the state board office which has adopted, amended, or repealed a Rule in accordance with the applicable provisions of the law relating to public records.

1. Will the proposed Rule affect the stability of the family? No.

2. Will the proposed Rule affect the authority and rights of parents regarding the education and supervision of their children? No.

3. Will the proposed Rule affect the functioning of the family? No.

4. Will the proposed Rule affect family earnings and family budget? No.

5. Will the proposed Rule affect the behavior and personal responsibility of children? No.

6. Is the family or a local government able to perform the function as contained in the proposed Rule? Yes.

Poverty Impact Statement

In accordance with section 973 of title 49 of the *Louisiana Revised Statutes*, there is hereby submitted a Poverty Impact Statement on the Rule proposed for adoption, amendment, or repeal. All Poverty Impact Statements shall be in writing and kept on file in the state agency which has adopted, amended, or repealed a Rule in accordance with the applicable provisions of the law relating to public records. For the purposes of this section, the word “poverty” means living at or below 100 hundred percent of the federal poverty line.

1. Will the proposed Rule affect the household income, assets, and financial security? No.

2. Will the proposed Rule affect early childhood development and preschool through postsecondary education development? No.

3. Will the proposed Rule affect employment and workforce development? No.

4. Will the proposed Rule affect taxes and tax credits? No.

5. Will the proposed Rule affect child and dependent care, housing, health care, nutrition, transportation, and utilities assistance? No.

Small Business Analysis

The impact of the proposed Rule on small businesses as defined in the Regulatory Flexibility Act has been considered. It is estimated that the proposed action is not expected to have a significant adverse impact on small businesses. The agency, consistent with health, safety, environmental and economic welfare factors has considered

NOTICE OF INTENT

Board of Elementary and Secondary Education

Bulletin 1706—Regulations for Implementation of the Children with Exceptionalities Act (LAC 28: XLIII.540 and 543)

and, where possible, utilized regulatory methods in the drafting of the proposed Rule that will accomplish the objectives of applicable statutes while minimizing the adverse impact of the proposed Rule on small businesses.

Provider Impact Statement

The proposed Rule should not have any known or foreseeable impact on providers as defined by HCR 170 of 2014 Regular Legislative Session. In particular, there should be no known or foreseeable effect on:

- 1. the effect on the staffing level requirements or qualifications required to provide the same level of service;
2. the total direct and indirect effect on the cost to the providers to provide the same level of service; or
3. the overall effect on the ability of the provider to provide the same level of service.

Public Comments

Interested persons may submit written comments via the U.S. Mail until 4:30 p.m., October 9, 2016, to Shan N. Davis, Board of Elementary and Secondary Education, Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Shan N. Davis
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Bulletin 741—Louisiana Handbook for School Administrators—TOPS University Diploma

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There will be no impact to the state department of education or local school districts as a result of the proposed policy revisions.

In accordance with Act 303 of the 2016 Regular Legislative Session, the proposed revisions provide for a student with a disability, as defined in Bulletin 1706, who is no longer enrolled in public schools and who previously failed to receive a high school diploma or was denied graduation solely for failing to meet the exit examination requirements to petition the local school board to determine if the student is eligible to receive a high school diploma. The deadline for petition is December 31, 2017.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

This policy 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)

Students with disabilities who did not receive a high school diploma may benefit from these revisions, to the extent they are awarded a diploma which could qualify them for employment for which they would otherwise be ineligible.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This policy will have no effect on competition and employment.

Beth Scioneaux
Deputy Superintendent
1609#044

Evan Brasseaux
Staff Director
Legislative Fiscal Office

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education approved for advertisement revisions to Bulletin 1706—Regulations for Implementation of the Children with Exceptionalities Act: §540. Definitions, and §543. Restriction on the Use of Seclusion or Physical Restraint. Act 522 of the 2016 Regular Legislative Session requires that local education agency (LEA) guidelines and procedures regarding seclusion and restraints be provided to the Louisiana Department of Education (LDOE) and posted on each school and LEA website. LEAs must also use the Special Education Reporting (SER) System for reporting incidents and all instances must be reported at least monthly. The proposed revisions align current policy with Act 522 of the 2016 Regular Legislative Session.

Title 28
EDUCATION

Part XLIII. Bulletin 1706—Regulations for Implementation of the Children with Exceptionalities Act Chapter 5. Procedural Safeguards

Subchapter C. Seclusion and Physical Restraint

§540. Definitions

A. - A.3.b.i. ...

ii. momentary blocking of a student's action if said action is likely to result in harm to the student or any other person.

3.b.iii. - 8. ...

AUTHORITY NOTE: Promulgated in accordance with R.S.17:7(5)(b) and 17:416.21.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 38:1006 (April 2012), amended LR 42:

§543. Restrictions on the Use of Seclusion or Physical Restraint

A. - H. ...

I. If a student is involved in five incidents in a single school year involving the use of physical restraint or seclusion, the student's individualized education plan team shall review and revise the student's behavior intervention plan to include any appropriate and necessary behavioral supports. Thereafter, if the student's challenging behavior continues or escalates requiring repeated use of seclusion or physical restraint practices, the special education director or his designee shall review the student's plans at least once every three weeks.

J. The governing authority of each public elementary and secondary school shall adopt written guidelines and procedures regarding:

- 1. reporting requirements and follow-up procedures;
2. notification requirements for school officials and a student's parent or other legal guardian; and

3. an explanation of the methods of physical restraint and the school employee training requirements relative to the use of restraint.

K. The guidelines and procedures shall be provided to the LDE, all school employees and every parent of a child with a disability. The guidelines and procedures shall also be posted at each school and on each school system's website.

L. The governing authority of each public elementary and secondary school shall report all instances where seclusion or physical restraint is used to address student behavior to the state Department of Education through the special education reporting (SER) system. At a minimum, all instances must be reported on a monthly basis.

M. The state Department of Education, using the data elements collected in SER, shall maintain a database of all reported incidents of seclusion and physical restraint of students with disabilities and shall disaggregate the data for analysis by school, student age, race, ethnicity, and gender, student disability, where applicable, and any involved school employees.

N. Based upon the data collected, the LDE shall annually compile a comprehensive report regarding the use of seclusion and physical restraint of students with exceptionalities, which shall at a minimum include the following:

1. The number of incidents of physical restraint disaggregated by school system; student age, race, ethnicity, gender, and student disability classification.

2. The number of incidents of seclusion disaggregated by school system; student age, race, ethnicity, gender, and student disability classification.

3. A list of the school systems and charter schools that have complied with the reporting requirements pursuant to Paragraph 2 of this Subsection.

O. The state Department of Education shall post the annual report pursuant to Subsection O of this Section on its website and submit a written copy to the Senate and House committees on education and the Advisory Council on Student Behavior and Discipline established pursuant to R.S. 17:253.

AUTHORITY NOTE: Promulgated in accordance with R.S.17:7(5)(b) and 17:416.21.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 38:1007 (April 2012), repromulgated LR 38:1225 (May 2012), amended LR 38:1404 (June 2012), LR 39:3261 (December 2013), LR 42:

Family Impact Statement

In accordance with Section 953 and 974 of Title 49 of the Louisiana Revised Statutes, there is hereby submitted a Family Impact Statement on the Rule proposed for adoption, repeal or amendment. All Family Impact Statements shall be kept on file in the state board office which has adopted, amended, or repealed a Rule in accordance with the applicable provisions of the law relating to public records.

1. Will the proposed Rule affect the stability of the family? No.

2. Will the proposed Rule affect the authority and rights of parents regarding the education and supervision of their children? No.

3. Will the proposed Rule affect the functioning of the family? No.

4. Will the proposed Rule affect family earnings and family budget? No.

5. Will the proposed Rule affect the behavior and personal responsibility of children? No.

6. Is the family or a local government able to perform the function as contained in the proposed Rule? Yes.

Poverty Impact Statement

In accordance with Section 973 of Title 49 of the Louisiana Revised Statutes, there is hereby submitted a Poverty Impact Statement on the Rule proposed for adoption, amendment, or repeal. All Poverty Impact Statements shall be in writing and kept on file in the state agency which has adopted, amended, or repealed a Rule in accordance with the applicable provisions of the law relating to public records. For the purposes of this Section, the word "poverty" means living at or below one hundred percent of the federal poverty line.

1. Will the proposed Rule affect the household income, assets, and financial security? No.

2. Will the proposed Rule affect early childhood development and preschool through postsecondary education development? Yes.

3. Will the proposed Rule affect employment and workforce development? No.

4. Will the proposed Rule affect taxes and tax credits? No.

5. Will the proposed Rule affect child and dependent care, housing, health care, nutrition, transportation, and utilities assistance? No.

Small Business Analysis

The impact of the proposed Rule on small businesses as defined in the Regulatory Flexibility Act has been considered. It is estimated that the proposed action is not expected to have a significant adverse impact on small businesses. The agency, consistent with health, safety, environmental and economic welfare factors has considered and, where possible, utilized regulatory methods in the drafting of the proposed Rule that will accomplish the objectives of applicable statutes while minimizing the adverse impact of the proposed Rule on small businesses.

Provider Impact Statement

The proposed Rule should not have any known or foreseeable impact on providers as defined by HCR 170 of 2014 Regular Legislative Session. In particular, there should be no known or foreseeable effect on:

1. the effect on the staffing level requirements or qualifications required to provide the same level of service;

2. the total direct and indirect effect on the cost to the providers to provide the same level of service; or

3. the overall effect on the ability of the provider to provide the same level of service.

Public Comments

Interested persons may submit written comments via the U.S. Mail until 4:30 p.m., October 9, 2016, to Shan N. Davis, Board of Elementary and Secondary Education, Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Shan N. Davis
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

**RULE TITLE: Bulletin 1706—Regulations for
Implementation of the Children with Exceptionalities Act**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO
STATE OR LOCAL GOVERNMENT UNITS (Summary)**

The proposed policy revision will have no effect on costs or savings to state or local governmental units. The proposed revisions align current policy with Act 522 of the 2016 Regular Legislative Session which requires that local education agency (LEA) guidelines and procedures regarding seclusion and restraints be provided to the Louisiana Department of Education (LDOE) and posted on each school and LEA website. LEAs must also use the Special Education Reporting (SER) System for reporting incidents and all instances must be reported at least monthly.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE
OR LOCAL GOVERNMENTAL UNITS (Summary)**

This policy 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)**

There will be no estimated cost and/or economic benefit to directly affected persons or non-governmental groups.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT
(Summary)**

This policy will have no effect on competition and employment.

Beth Scioneaux
Deputy Superintendent
1609#045

Evan Brasseaux
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Environmental Quality
Office of the Secretary
Legal Division**

**Comparable Fuels and Syngas Fuel Exclusions
(LAC 33:V.105, 109 and 4909)(HW120ft)**

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 Hazardous Waste regulations, LAC 33:V.105, 109 and 4909 (Log #HW120ft).

This Rule is identical to federal regulations found in 80 FR 18777, which are applicable in Louisiana. For more information regarding the federal requirement, contact the Regulation Development Section at (225) 219-3985 or P.O. Box 4302, Baton Rouge, LA 70821-4302. No fiscal or economic impact will result from the Rule. This Rule will be promulgated in accordance with the procedures in R.S. 49:953(F)(3) and (4).

This Rule repeals the comparable fuels and syngas fuel exclusions from the Louisiana hazardous waste regulations, in response to the repeal of the corresponding federal regulations. This stems from federal court-ordered vacatures issued on June 27, 2014. Louisiana's hazardous waste program operates under a federal grant from the U.S. EPA. Part of the requirements for maintaining this grant is to

maintain the Louisiana hazardous waste regulations so that they are equivalent to, or more stringent than, the corresponding federal regulations.

The basis and rationale of this Rule are to mirror the federal regulations. 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 V. Hazardous Waste and Hazardous Materials

**Subpart 1. Department of Environmental Quality—
Hazardous Waste**

Chapter 1. General Provisions and Definitions

§105. Program Scope

These rules and regulations apply to owners and operators of all facilities that generate, transport, treat, store, or dispose of hazardous waste, except as specifically provided otherwise herein. The procedures of these regulations also apply to the denial of a permit for the active life of a hazardous waste management facility or TSD unit under LAC 33:V.706. Definitions appropriate to these rules and regulations, including *solid waste* and *hazardous waste*, appear in LAC 33:V.109. Wastes that are excluded from regulation are found in this Section.

A. - D.1.k. ...

l.i. oil-bearing hazardous secondary materials (i.e., sludges, by-products, or spent materials) that are generated at a petroleum refinery (SIC code 2911) and are inserted into the petroleum refining process (SIC code 2911, including, but not limited to, distillation, catalytic cracking, fractionation, or thermal cracking units [i.e., cokers]) unless the material is placed on the land or speculatively accumulated before being so recycled. Materials inserted into thermal cracking units are excluded under this Paragraph, provided that the coke product also does not exhibit a characteristic of hazardous waste. Oil-bearing hazardous secondary materials may be inserted into the same petroleum refinery where they are generated, or sent directly to another petroleum refinery, and still be excluded under this provision. Except as provided in Clause D.1.l.ii of this Section, oil-bearing hazardous secondary materials generated elsewhere in the petroleum industry (i.e., from sources other than petroleum refineries) are not excluded under this Section. Residuals generated from processing or recycling materials excluded under this Subsection, where such materials as generated would have otherwise met a listing under LAC 33:V.Chapter 49, are designated as F037 listed wastes when disposed of or intended for disposal;

l.ii. - p.vi. ...

q. Reserved.

D.1.r. - P.2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq., and in particular, 2186(A)(2).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 10:496 (July 1984), LR 11:1139 (December 1985), LR 12:319 (May 1986), LR 13:84 (February 1987), LR 13:433 (August 1987), LR 13:651 (November 1987), LR 14:790 (November 1988), LR 15:181 (March 1989), LR 16:47 (January 1990), LR 16:217, LR 16:220 (March 1990), LR 16:398 (May 1990), LR 16:614 (July

1990), LR 17:362, 368 (April 1991), LR 17:478 (May 1991), LR 17:883 (September 1991), LR 18:723 (July 1992), LR 18:1256 (November 1992), LR 18:1375 (December 1992), amended by the Office of the Secretary, LR 19:1022 (August 1993), amended by the Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 20:1000 (September 1994), LR 21:266 (March 1995), LR 21:944 (September 1995), LR 22:813, 831 (September 1996), amended by the Office of the Secretary, LR 23:298 (March 1997), amended by the Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 23:564, 567 (May 1997), LR 23:721 (June 1997), amended by the Office of Waste Services, Hazardous Waste Division, LR 23:952 (August 1997), LR 23:1511 (November 1997), LR 24:298 (February 1998), LR 24:655 (April 1998), LR 24:1093 (June 1998), LR 24:1687, 1759 (September 1998), LR 25:431 (March 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:268 (February 2000), LR 26:2464 (November 2000), LR 27:291 (March 2001), LR 27:706 (May 2001), LR 29:317 (March 2003), LR 30:1680 (August 2004), amended by the Office of Environmental Assessment, LR 30:2463 (November 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2451 (October 2005), LR 32:605 (April 2006), LR 32:821 (May 2006), LR 33:450 (March 2007), LR 33:2097 (October 2007), LR 34:614 (April 2008), LR 34:1008 (June 2008), LR 34:1893 (September 2008), LR 34:2395 (November 2008), LR 35:1878 (September 2009), LR 36:2553 (November 2010), LR 38:791 (March 2012), amended by the Office of the Secretary, Legal Division, LR 40:1336 (July 2014), LR 42:

§109. Definitions

For all purposes of these rules and regulations, the terms defined in this Chapter shall have the following meanings, unless the context of use clearly indicates otherwise.

* * *

Gasification—Repealed.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 10:496 (July 1984), LR 11:1139 (December 1985), LR 12:319 (May 1986), LR 13:84 (February 1987), LR 13:433 (August 1987), LR 13:651 (November 1987), LR 14:790, 791 (November 1988), LR 15:378 (May 1989), LR 15:737 (September 1989), LR 16:218, 220 (March 1990), LR 16:399 (May 1990), LR 16:614 (July 1990), LR 16:683 (August 1990), LR 17:362 (April 1991), LR 17:478 (May 1991), LR 18:723 (July 1992), LR 18:1375 (December 1992), repromulgated by the Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 19:626 (May 1993), amended LR 20:1000 (September 1994), LR 20:1109 (October 1994), LR 21:266 (March 1995), LR 21:944 (September 1995), LR 22:814 (September 1996), LR 23:564 (May 1997), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:655 (April 1998), LR 24:1101 (June 1998), LR 24:1688 (September 1998), LR 25:433 (March 1999), repromulgated LR 25:853 (May 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:269 (February 2000), LR 26:2465 (November 2000), LR 27:291 (March 2001), LR 27:708 (May 2001), LR 28:999 (May 2002), LR 28:1191 (June 2002), LR 29:318 (March 2003); amended by the Office of the Secretary, Legal Affairs Division, LR 31:2452 (October 2005), LR 31:3116 (December 2005), LR 32:606 (April 2006), LR 32:822 (May 2006), LR 33:1625 (August 2007), LR 33:2098 (October 2007), LR 34:71 (January 2008), LR 34:615 (April 2008), LR 34:1009 (June 2008), LR 34:1894 (September 2008), LR 34:2396 (November 2008), LR 36:1235 (June 2010), repromulgated LR 36:1535 (July 2010), amended LR 36:2554 (November 2010), LR 38:774, 781 (March

2012), repromulgated LR 38:1009 (April 2012), amended by the Office of the Secretary, Legal Division, LR 40:1338 (July 2014), LR 41:2600 (December 2015), LR 42:565 (April 2016), LR 42:

Chapter 49. Lists of Hazardous Wastes

Editor's Note: Chapter 49 is divided into two Sections: category I hazardous wastes, which consist of hazardous wastes from nonspecific and specific sources (F and K wastes), acute hazardous wastes (P wastes), and toxic wastes (U wastes) (LAC 33:V.4901); and category II hazardous wastes, which consist of wastes that are ignitable, corrosive, reactive, or toxic (LAC 33:V.4903).

§4909. Exclusion of Comparable Fuel and Syngas Fuel Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Waste Services, Hazardous Waste Division, LR 25:489 (March 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 27:305 (March 2001), LR 28:1010 (May 2002), amended by the Office of the Secretary, Legal Affairs Division, LR 34:644 (April 2008), LR 34:1021 (June 2008), LR 38:791 (March 2012), repealed by the Office of the Secretary, Legal Division, LR 42:

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 HW120ft. Such comments must be received no later than October 26, 2016, at 4:30 p.m., and should be sent to Deidra Johnson, Attorney Supervisor, Office of the Secretary, Legal 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. The comment period for this Rule ends on the same date as the public hearing. Copies of this proposed regulation 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 HW120ft. This regulation is available on the internet at www.deq.louisiana.gov/portal/tabid/1669/default.aspx.

Public Hearing

A public hearing will be held on October 26, 2016, at 1:30 p.m. in the Galvez Building, Oliver Pollock Conference Room, 602 North 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.

This proposed regulation is available for inspection at the following DEQ office locations from 8 a.m. until 4:30 p.m.: 602 North 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

1609#077

NOTICE OF INTENT

Department of Environmental Quality Office of the Secretary Legal Division

Hazardous Waste Exclusions for Coal Combustion Residuals (LAC 33:V.105)(HW119ft)

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 Hazardous Waste regulations, LAC 33:V.105 (Log #HW119ft).

This Rule is identical to federal regulations found in 80FR21301, which are applicable in Louisiana. For more information regarding the federal requirement, contact the Regulation Development Section at (225) 219-3985 or P.O. Box 4302, Baton Rouge, LA 70821-4302. No fiscal or economic impact will result from the Rule. This Rule will be promulgated in accordance with the procedures in R.S. 49:953(F)(3) and (4).

This Rule excludes certain residual solid wastes from coal combustion from the definition of *hazardous waste* in Louisiana. The state's hazardous waste program operates under a federal grant from the U.S. EPA. Part of the requirements for maintaining this grant is to maintain the Louisiana hazardous waste regulations so that they are equivalent to or more stringent than the corresponding federal regulations.

The basis and rationale of this Rule are to mirror the federal regulations. 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 V. Hazardous Waste and Hazardous Materials

Subpart 1. Department of Environmental Quality— Hazardous Waste

Chapter 1. General Provisions and Definitions

§105. Program Scope

These rules and regulations apply to owners and operators of all facilities that generate, transport, treat, store, or dispose of hazardous waste, except as specifically provided otherwise herein. The procedures of these regulations also apply to the denial of a permit for the active life of a hazardous waste management facility or TSD unit under LAC 33:V.706. Definitions appropriate to these rules and regulations, including *solid waste* and *hazardous waste*, appear in LAC 33:V.109. Wastes that are excluded from regulation are found in this Section.

A. - D.2.c. ...

d. coal combustion residuals include:

i. fly ash waste, bottom ash waste, slag waste, and flue gas emission control waste, generated primarily from the combustion of coal or other fossil fuels, except as provided in LAC 33:V.3025 for facilities that burn or process hazardous waste;

ii. the following wastes generated primarily from processes that support the combustion of coal or other fossil fuels that are co-disposed with the wastes in Clause D.2.d.i of this Section, except as provided in LAC 33:V.3025 for facilities that burn or process hazardous waste for the purpose of Subparagraph D.2.d of this Section include:

(a). *coal pile runoff*—any precipitation that drains off coal piles;

(b). *boiler cleaning solutions*—water solutions and chemical solutions used to clean the fireside and waterside of the boiler;

(c). *boiler blowdown*—water purged from boilers used to generate steam;

(d). *process water treatment and demineralizer regeneration wastes*—sludges, rinses, and spent resins generated from processes to remove dissolved gases, suspended solids, and dissolved chemical salts from combustion system process water;

(e). *cooling tower blowdown*—water purged from a closed cycle cooling system, which includes cooling towers, cooling ponds, or spray canals;

(f). *air preheater and precipitator washes*—wastes from cleaning air preheaters and electrostatic precipitators;

(g). *effluents from floor drains, yard drains, and sumps*—wastewaters (e.g., wash water) collected by or from floor drains, equipment drains, and sumps located inside the power plant building; and wastewaters (e.g., rain runoff) collected by yard drains and sumps located outside the power plant building;

(h). *wastewater treatment sludges*—refers to sludges generated from the treatment of wastewaters specified in Subclauses (a) through (f) of this Clause;

D.2.e. - P.2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq., and in particular, 2186(A)(2).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 10:496 (July 1984), LR 11:1139 (December 1985), LR 12:319 (May 1986), LR 13:84 (February 1987), LR 13:433 (August 1987), LR 13:651 (November 1987), LR 14:790 (November 1988), LR 15:181 (March 1989), LR 16:47 (January 1990), LR 16:217, LR 16:220 (March 1990), LR 16:398 (May 1990), LR 16:614 (July 1990), LR 17:362, 368 (April 1991), LR 17:478 (May 1991), LR 17:883 (September 1991), LR 18:723 (July 1992), LR 18:1256 (November 1992), LR 18:1375 (December 1992), amended by the Office of the Secretary, LR 19:1022 (August 1993), amended by the Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 20:1000 (September 1994), LR 21:266 (March 1995), LR 21:944 (September 1995), LR 22:813, 831 (September 1996), amended by the Office of the Secretary, LR 23:298 (March 1997), amended by the Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 23:564, 567 (May 1997), LR 23:721 (June 1997), amended by the Office of Waste Services, Hazardous Waste Division, LR 23:952 (August 1997), LR 23:1511 (November 1997), LR 24:298 (February 1998), LR 24:655 (April 1998), LR

24:1093 (June 1998), LR 24:1687, 1759 (September 1998), LR 25:431 (March 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:268 (February 2000), LR 26:2464 (November 2000), LR 27:291 (March 2001), LR 27:706 (May 2001), LR 29:317 (March 2003), LR 30:1680 (August 2004), amended by the Office of Environmental Assessment, LR 30:2463 (November 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2451 (October 2005), LR 32:605 (April 2006), LR 32:821 (May 2006), LR 33:450 (March 2007), LR 33:2097 (October 2007), LR 34:614 (April 2008), LR 34:1008 (June 2008), LR 34:1893 (September 2008), LR 34:2395 (November 2008), LR 35:1878 (September 2009), LR 36:2553 (November 2010), LR 38:791 (March 2012), amended by the Office of the Secretary, Legal Division, LR 40:1336 (July 2014), LR 42:

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 HW119ft. Such comments must be received no later than October 26, 2016, at 4:30 p.m., and should be sent to Deidra Johnson, Attorney Supervisor, Office of the Secretary, Legal 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. The comment period for this Rule ends on the same date as the public hearing. Copies of this proposed regulation 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 HW119ft. This regulation is available on the internet at www.deq.louisiana.gov/portal/tabid/1669/default.aspx.

Public Hearing

A public hearing will be held on October 26, 2016, at 1:30 p.m. in the Galvez Building, Oliver Pollock Conference Room, 602 North 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.

This proposed regulation is available for inspection at the following DEQ office locations from 8 a.m. until 4:30 p.m.: 602 North 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

1609#035

NOTICE OF INTENT

Office of the Governor Board of Pardons and Committee on Parole

Hearings before the Pardon Board and Notification Requirements to Victims (LAC 22:V.211 and XI.510)

In accordance with the provisions of the Administrative Procedure Act (R.S. 49:950), the Board of Pardons hereby gives notice of its intent to amend its rules of LAC 22:V.211. This proposed Rule changes provides clarification to hearing notification requirements to victims. LAC 22:XI.510. This proposed Rule change provides clarification to hearing notification requirements to victims.

Title 22

CORRECTIONS, CRIMINAL JUSTICE AND LAW ENFORCEMENT

Part V. Board of Pardons

Chapter 2. Clemency

§211. Hearings before the Pardon Board

A - B. ...

C. At least 30 days prior to public hearing date, the board shall give written notice of the date, time, and place to the following:

1. the district attorney and sheriff of the parish in which the applicant was convicted and, in Orleans Parish, the superintendent of police;
2. the applicant;
3. the victim or the spouse or next of kin, unless the injured victim's spouse or next of kin of a deceased victim. The notice is not required when the victim, or the spouse or next of kin of a deceased victim advises the board, in writing, that such notification is not desired;
4. the Crime Victims Services Bureau of the Department of Public Safety and Corrections; and
5. any other interested person who notifies the board of pardons, in writing, giving name and return address.

D. The district attorney, injured victim, spouse, or next of kin, and any other persons who desire to do so shall be given a reasonable opportunity to attend the hearing. The district attorney or his representative, victim, victim's family, and a victim advocacy group, may appear before the board of pardons by means of telephone communication from the office of the local district attorney. The victim shall be allowed to present written or oral statement of the victim's views about the offense, the offender, and the effect of the offense on the victim.

E. Only three persons in favor, to include the applicant, and three in opposition, to include the victim/victim's family member, will be allowed to speak at the hearing. Any person making an oral presentation to the board will be allowed no more than 5 minutes. All persons making oral presentations in favor of an applicant shall be allowed cumulatively no more than 10 minutes. All persons making oral presentations against an applicant, including victims, shall be allowed cumulatively no more than 10 minutes. The chairman may extend the time limitations for oral presentations at his or her

discretion. However, there is no limit on written correspondence in favor of and/or opposition to the applicant's request.

F. If an applicant is released from custody and/or supervision prior to public hearing date, the case will be closed without notice to the applicant. Applicant may reapply two years from the date of release.

G. Applicant's failure to attend and/or notify the board of pardons office of his/her inability to attend the hearing will result in an automatic denial. The applicant may reapply two years from the date of scheduled hearing. Lifers who fail to attend and/or advise of inability to attend may reapply in five years if it is his/her initial hearing, and every five years thereafter.

H. Four members of the board shall constitute a quorum for the transaction of business, and all actions of the board shall require the favorable vote of at least four members of the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:572.4, 15:574.12 and 44:1 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Pardons, LR 39:2256 (August 2013), amended LR 42:1088 (July 2016), amended by the Office of the Governor, Board of Pardons and Committee on Parole, LR 42:

Part XI. Committee on Parole

Chapter 5. Meetings and Hearings of the Committee on Parole

§510. Victims

A. Before a parole panel considers parole release for an offender who is serving a sentence of an offense in which a person was a victim, the direct victim of the offense shall be allowed to present written or oral testimony of the victim's views about the offense, the offender, and the effect of the offense on the victim. The parole panel shall allow one person to appear in person before the panel on behalf of the victim. Nothing in this Section is intended to limit the panel's discretion to allow individual victims to make personal appearance or to make contact by phone through the local district attorney's victim advocacy representative. There is no limit on written correspondence in favor of and/or opposition to an offender's consideration for parole.

B. The victim, spouse, or next of kin of a deceased victim shall be advised in writing no less than 30 days prior to the hearing date when the offender is scheduled for a parole hearing.

1. *Victim*—an individual against whom a crime has been perpetrated.

C. The notice shall advise the victim, spouse, or next of kin of a deceased victim that:

1. the hearing is open to the public;
2. he or she may remain in the hearing room during the entire hearing (except during executive session); and
3. he or she may speak to the panel prior to its making a decision in the case.

D. The Committee on Parole has delegated the responsibility for this notice to the Department of Public Safety and Corrections.

E. The written notice is not required when the victim, the spouse, or next of kin of a deceased victim, advises the committee in writing that such notification is not desired.

F. Notification is not required when the victim cannot be located despite the exercise of due diligence.

G. Pursuant to R.S. 15:574.2(C)(12) the panel may exclude anyone from the hearing to protect the privacy of the victim or victims.

H. The victim, the guardian of the victim, or close relative of a deceased victim shall have the right to make a written or oral statement as to the impact of the crime.

I. The victim, the guardian of the victim, or close relative of a deceased victim or a victim's advocacy group, and the district attorney or his representative may also appear before the panel by means of telephone communication from the office of the local district attorney.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:574.2 et seq., R.S. 15:535 et seq., and R.S. 15:540 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Pardons, Committee on Parole, LR 39:2263 (August 2013), amended by the Office of the Governor, Board of Pardons and Committee on Parole, LR 42:

Family Impact Statement

Amendment to the rules has no known impact on family formation, stability or autonomy, as described in R.S. 49:972.

Poverty Impact Statement

In compliance with Act 854 of the 2012 Regular Session of the Louisiana Legislature, the poverty impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will have no impact on child, individual, or family poverty in relations to individual or community asset development 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 2012 Regular Legislative Session.

Public Comments

Written comments may be addressed to Mona Wagner, Corrections Management Officer, Board of Pardons and Committee on Parole, P.O. Box 94304, Baton Rouge, LA 70804 until 4:30 p.m. on October 10, 2016.

Sheryl M. Ranatza
Board Chair

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Hearings before the Pardon Board and Notification Requirements to Victims

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed rule changes have no estimated implementation costs to state or local governmental units. The proposed changes are to promulgate amendment to the rules for LAC Title 22 Part V Chapter 2, §211 Hearing for Board of Pardon and for LAC Title 22 Part XI Chapter 5, §510 Victims. The purpose for amendments is to clarify the requirements for notification to victims.

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.

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
1609#037

Evan Brasseaux
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Office of the Governor
Board of Pardons
and
Committee on Parole**

Parole Eligibility and Types (LAC 22:XI.304)

Notice is hereby given in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Board of Pardons and Committee on Parole hereby gives notice of their intent to amend Chapter 3 to establish guidelines for parole consideration for juvenile offenders who were sentenced to life imprisonment without the possibility for parole consideration for a conviction of first or second-degree murder prior to enactment of Act 239 of the 2013 Regular Legislative Session.

This proposed Rule change provides with respect to the United States Supreme Court decision in *Miller v. Alabama* which held that life in prison without possibility of parole for juvenile offenders was unconstitutional. Act 239 of the 2013 Regular Legislative Session was passed in response to the United States Supreme Court decision in *Miller v. Alabama* and was applied prospectively. In January 2016, the United States Supreme Court rendered its decision in *Montgomery v. Louisiana* and determined that the *Miller* decision must also be applied retroactively; however, in Louisiana no section of the *Revised Statutes* is retroactive unless that is expressly stated (Stat Ann. §1:2). Lacking language in the applicable statute as to retroactive application of *Miller*, this Rule provides guidelines for the Committee on Parole for parole consideration for juvenile offenders sentenced to life imprisonment prior to Act 239 of 2013. These guidelines are not intended to imply or guarantee eventual freedom, but to provide meaningful opportunity to obtain release based on demonstrated maturity and rehabilitation as mandated by *Miller*.

Title 22

**CORRECTIONS, CRIMINAL JUSTICE AND LAW
ENFORCEMENT**

Part XI. Committee on Parole

Chapter 3. Parole—Eligibility and Types

§304. Parole Consideration for Youth Offenders

A. Once a judicial determination is rendered removing the parole restriction, a person sentenced to life imprisonment for a homicide committed when the offender was under the age of 18 and who was sentenced prior to Act 239 of 2013 may be considered for parole once all of the following conditions are met.

1. The offender has served 35 years of the sentence imposed.

2. The offender has not had any major (schedule B) disciplinary offenses in the 12 consecutive months prior to the parole hearing.

3. The offender has completed 100 hours of prerelease programming in accordance with R.S. 15:827.1.

4. The offender has completed substance abuse programming as applicable.

5. The offender has obtained a high school equivalency (HSE) certification, unless the offender has previously obtained a high school diploma or is deemed by a certified educator as being incapable of obtaining a HSE certification due to a learning disability. If the offender is deemed incapable of obtaining a HSE certification, the offender must have completed at least one of the following:

- a. a literacy program;
- b. an adult basic education program; or
- c. a job skills training program.

6. The offender has obtained a low-risk level designation by a validated risk assessment instrument approved by the secretary of the Louisiana Department of Public Safety and Corrections.

B. For each offender eligible for parole consideration, the parole panel shall give great weight to the fact that youth are deemed to be less responsible than adults for their actions. At a minimum the parole panel shall consider mitigating factors for offenders sentenced before the age of 18, including but not limited to:

1. the age and life circumstances of the offender as of the date of the commission of the crime;

2. the hallmark features of youth at the time of commission of the crime, including but not limited to, diminished understanding or risks and consequences, diminished ability to resist peer pressure, and diminished ability to control surroundings;

3. whether the offender has demonstrated remorse, growth, and increased maturity since the date of the commission of the crime;

4. the offender's contributions to the welfare of other persons through service;

5. when appropriate, the offender's efforts to overcome substance abuse, addiction, or trauma;

6. lack of education or obstacles that the offender may have faced as an adolescent in the adult correctional system; and

7. the overall degree of the offender's rehabilitation considering the offender's age and life circumstances at the time of the crime, the nature of circumstances of the offender's involvement in the crime, and the offender's opportunities for rehabilitation while incarcerated.

C. The parole panel shall consider a current mental health evaluation of the offender regarding the offender's background and current functioning, especially in regards to factors identified by the United States Supreme Court in *Miller v. Alabama* as important considerations in the sentencing of adolescents.

D. To deny parole, the parole panel must determine that the need for continued incarceration of the offender outweighs the benefits to the offender and society that would result from the offender's release to the community.

E. Each parole panel member must articulate the basis of their individual decision both orally and in writing.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:574.2 et seq., R.S. 15:535 et seq., and R.S. 15:540 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Pardons and Committee on Parole, LR 42:

Family Impact Statement

Amendment to the rules has no known impact on family formation, stability or autonomy, as described in R.S. 49:972.

Poverty Impact Statement

In compliance with Act 854 of the 2012 Regular Session of the Louisiana Legislature, the poverty impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will have no impact on child, individual, or family poverty in relations to individual or community asset development 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 2012 Regular Legislative Session.

Public Comments

Written comments may be addressed to Mona Wagner, Corrections Management Officer, Board of Pardons and Committee on Parole, P.O. Box 94304, Baton Rouge, LA 70804 until 4:30 p.m. on October 10, 2016.

Sheryl Ranatza
Board Chair

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Parole Eligibility and Types

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed rule change will not have a material fiscal impact on state or local governmental unit expenditures.

To the extent certain individuals become eligible for parole and are successful in attaining release from incarceration, the state may realize a corresponding cost savings. The Department of Corrections anticipates any such savings to be negligible. The purpose of this rule change is to promulgate LAC 22:XI:304. The proposed rule change provides for granting parole eligibility with respect to juvenile offenders that were sentenced to life imprisonment without possibility of parole prior to the provisions of Act 239 of the 2013 Regular Legislative Session (which stipulated parole eligibility for such juveniles prospectively and not retroactively). The rule change is needed due to the United States Supreme Court decision rendered in January 2016, in *Montgomery v. Louisiana* determining that dissolution of a sentence of life imprisonment without eligibility for parole must be applied retroactively.

LAC 22:XI:304 provides the guidelines for the Committee on Parole for parole consideration for juvenile offenders sentenced to life imprisonment prior to Act 239 of 2013. These guidelines are not intended to imply or guarantee eventual freedom, but to provide meaningful opportunity to obtain release based on demonstrated maturity and rehabilitation as mandated by Miller.

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)

To the extent incarcerated individuals may realize a potential increase in opportunity for parole, they may also realize an economic benefit in potentially entering or returning to the workforce.

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
1609#036

Evan Brasseaux
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Office of the Governor
District Attorneys' Retirement System**

**Funding of Retirement System
(LAC 58:XXI.901)**

The Board of Trustees of the District Attorneys' Retirement System ("DARS") proposed to adopt LAC 58:XXI. Chapter 9 as interpretation of the provisions of the District Attorneys' Retirement System, as authorized by R.S. 11:1658 and 1659. This proposed Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq. The purpose of the proposed Rule is to provide improved funding for the District Attorneys' Retirement System.

Title 58

RETIREMENT

**Part XXI. District Attorneys' Retirement System
Chapter 9. Funding of Retirement System**

§901. Employer Contributions

A. In accordance with R.S. 11:1658, the Board of Trustees directs that the direct employer contribution rate for January 1, 2017 through June 30, 2017 shall be two percent.

B. Any excess funds resulting from application of Subsection A of this Section shall be combined with any contribution surplus or offset by any contribution shortfall, and the resulting balance, if greater than zero, shall be accumulated in the funding deposit account pursuant to R.S. 11:1659.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 11:1658-1659 and R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Trustees of the District Attorneys' Retirement System, LR 42:

Family Impact Statement

This proposed Rule should not have any known or foreseeable impact on any family as defined by R.S. 49:972(D), or on family formation, stability and autonomy. There should be no known or foreseeable effect on: the stability of the family; the authority and rights of parents regarding the education and supervision of their children; the functioning of the family; on family earnings and family budget; the behavior and responsibility of children; or the ability of the family or a local government to perform the function as contained in the proposed Rule.

Poverty Impact Statement

In accordance with section 973 of title 49 of the Louisiana Revised Statutes, there is hereby submitted a Poverty Impact Statement on the Rule proposed for adoption, amendment, or repeal. All Poverty Impact Statements shall be in writing and kept on file in the state agency which has adopted, amended, or repealed a Rule in accordance with the applicable provisions of the law relating to public records. For the purposes of this Section, the word "poverty" means living at or below 100 percent of the federal poverty line.

1. Will the proposed Rule affect the household income, assets, and financial security? No.

2. Will the proposed Rule affect early childhood development and preschool through postsecondary education development? No.

3. Will the proposed Rule affect employment and workforce development? No.

4. Will the proposed Rule affect taxes and tax credits? No.

5. Will the proposed Rule affect child and dependent care, housing, health care, nutrition, transportation, and utilities assistance? No.

Small Business Analysis

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 possible, utilized regulatory methods in drafting the proposed Rule to accomplish the objectives of applicable statutes while minimizing any anticipated adverse impact on small businesses.

Provider Impact Statement

The proposed Rule should not have any known or foreseeable impact on providers as defined by HCR 170 of 2014 Regular Legislative Session. In particular, there should be no known or foreseeable effect on:

1. the effect on the staffing level requirements or qualifications required to provide the same level of service;

2. the total direct and indirect effect on the cost to the providers to provide the same level of service; or

3. the overall effect on the ability of the provider to provide the same level of service.

Public Comments

Interested persons may submit written comments to E. Pete Adams, 1645 Nicholson Drive, Baton Rouge, LA 70802-8143. He is responsible for responding to inquiries regarding this proposed Rule. The deadline for receipt of all written comments is 4:30 p.m. on October 10, 2015.

E. Pete Adams
President

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Funding of Retirement System

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rule change will result in an increase in state and local governmental expenditures. The District Attorneys' Retirement System (DARS) will collect payments from the State (\$281,550) and from local government units (\$289,908) during the period January 1 to June 30, 2017. The funds

collected will become a system asset and will be used to increase the system's funded ratio. As a result of Act 371 of 2015, DARS will increase the employer contribution from 0% to 2% during the six-month time period. Act 371 allows for DARS Board of Trustees to take actions such as maintain the net direct employer contribution rate, require a net contribution rate up to 3% more than the determined contribution rate, or set a contribution rate that is between the previous year's contribution rate and the determined contribution rate.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

Implementation of this proposed rule will have no effect on revenue collection of State or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The funded status of the District Attorneys' Retirement System will be improved. The percentage of benefits for which a funded reserve is available will increase.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

District Attorneys and Assistant District Attorneys will have greater incentive to remain employed with the District Attorneys' Offices and will have greater confidence in their ability to receive benefits from the Retirement System.

E. Pete Adams
Director
1609#046

Evan Brasseaux
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Office of the Governor Board of Home Inspectors

Education, Training and Testing
(LAC 46:XL.Chapters 1, 3, 5 and 7)

Notice is hereby given in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and through the authority granted in R.S. 17:1475(4), that the Board of Home Inspectors proposes to amend this Part to better facilitate education, training and testing and to comply with the provisions of R.S. 17:1478B and to further clarify the duties of special investigative entities.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part XL. Home Inspectors

Chapter 1. General Rules

§105. Officers; Election; Secretary-Treasurer; Chief Operating Officer; Board Staff; Duties

A. - C. ...

D. The board shall be represented by the attorney general's office. In lieu of available representation from the attorney general, the board may retain qualified counsel of its choice as according to law and at fees no higher than the schedule provided by the attorney general for special assistant attorneys general. An attorney is qualified if a reasonable portion of their practice and experience is obtained from or devoted to administrative agency practice and procedure or civil litigation. In the event the board needs counsel on a specific area of expertise, an attorney may be retained for that purpose.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1475.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Board of Home Inspectors, LR 26:2738 (December 2000), amended by the Office of the Governor, Board of Home Inspectors, LR 30:1686 (August 2004), 36:2857 (December 2010), LR 42:

§119. Education/Training and Testing; Initial Licensure

A. - B. ...

C. The 130 hours of home inspection instruction and training shall consist of the following:

1. ...

2. a minimum of 30 hours of in-field platform training from a certified infield trainer;

3. a minimum of 10 hours of instruction and training from a certified in-field trainer, which shall consist of attending 10 live home inspections at a residential structure where a fee is paid and a report is provided to a client;

4. in addition to completion of the 130 hours of home inspection instruction and in-field training, the applicant shall also attend the report writing seminar conducted on behalf of the board by its approved representative and pass the board-approved examination of the standards of practice and *Code of Ethics*.

D.1. - D.2.d. ...

3. Before the trainee can be certified as having completed the required 90 hours of course work, the trainee must have:

a. - b. ...

c. mailed a completed LHI application form

E. ...

F. Prior to admission to an infield training program, the trainee shall complete the required 90 hours of course work described in §119.C.1.

G. Infield training shall consist of platform training and live training.

1. ...

2. Live training shall consist of attending 10 live home inspections with a certified infield trainer at a resale residential structure where a fee is paid and a report is provided to the client. The applicant shall be given one credit hour for each live inspection attended. No more than two applicants may be trained at a time during a live home inspection. Within five days from the inspection, the trainee shall prepare a mock home inspection report in a format that conforms to the requirements of the standards of practice for each home inspected during live training. The report shall be delivered to the trainer within five days of the inspections. The applicant shall retain these reports for three years from the date of completion of training.

H. Upon registering trainees for a 90-hour course, all certified pre-licensing education providers shall:

1. notify the board of the date of the commencement and completion of each 90-hour course of instruction of each trainee on the board-approved registration form;

2. keep records of attendance of each trainee enrolled in the pre-licensing course to confirm satisfactory completion of the required 90 hours of instruction;

3. provide the trainee with an education provider evaluation form approved by the board prior to final testing and completion of the required 90 hours of instruction;

4. provide a final examination and multiple periodic examinations to the trainee covering course contents; and

5. provide a copy of certificates of completion to the board on the board approved completion form of only those trainees who have successfully completed the full 90 hours of instruction.

I. Certified infield trainers shall:

1. - 4. ...

5. instruct the trainee on how to perform home inspections in compliance with the standards of practice and *Code of Ethics*;

J. - K. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1475 and R.S. 37:1485-1487.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Board of Home Inspectors, LR 26:2741 (December 2000), amended by the Office of the Governor, Board of Home Inspectors, LR 30:1687 (August 2004), LR 35:1519 (August 2009), LR 36:2858 (December 2010), LR 38:2529 (October 2012), LR 40:1003 (May 2014), LR 41:920 (May 2015), LR 42:

§120. Education Providers; Qualifications

A.1. ...

2. A *pre-licensing education provider* is defined as any individual or entity certified by the board to provide pre-licensing education as described in §119.C.1

A.3. - B.1.c. ...

2. Any individual or entity desiring to conduct business in this state as a pre-licensing education provider, continuing education provider or infield trainer shall file an application for certification with the board.

3. - 5.c. ...

6. Repealed.

C. - C.2. ...

D.1. All pre-licensing education providers shall designate a director, whose duty it shall be to ensure that the operations of the education facility and all training locations adhere to the requirements of the Louisiana home inspector license law and the rules and regulations of the board. The director shall be held responsible to the board for any violations thereof.

2. Directors shall coordinate and disseminate information pertaining to amendments in the license law, rules and regulations, or policies and procedures of the board to all staff, instructors, and employees of the pre-licensing education provider.

E.1. - E.4. ...

F.1. Pre-licensing education providers shall maintain accurate and properly indexed records on all students for at least three years after course completion and shall produce those records for inspection upon request of the board. Electronic records shall be maintained in a readily available format that does not prohibit, delay, or otherwise impede inspection.

2. Pre-licensing education providers shall maintain the following records on each student:

a. - e. ...

3. Pre-licensing education providers shall provide any student who requests it with a duplicate copy of his/her course completion records.

G.1. - H. ...

2. A copy of the contract, signed by the director of the pre-licensing education provider, shall be provided to the student immediately after both parties sign the contract.

G.3. - 4. ...

H. ...

I.1. Advertising by certified education providers shall be clear, concise and accurate. All advertisements shall be in the name of the education provider as certified by the board. Advertising by education providers shall not be false or misleading.

2. - 3. ...

J.1. In order to qualify as a pre-licensing education provider, an applicant shall:

a. - b.

c. agree, in writing, to defend, indemnify and hold the board harmless against any claim or suit alleging negligent or intentional acts or omissions of the education provider in its training, or otherwise, on a form prepared by the board and available for download from the board's website;

d. - f. ...

2. In order to qualify as a certified home inspector instructor of a pre-licensing education provider, a person must:

a. have been actively engaged in the legal performance of home inspections for a minimum of three years prior to certification;

b. not have been found guilty of substantial violations of the home inspector licensing law within three years prior to applying;

c. provide evidence that he has performed at least 500 legal home inspections; or

d. be licensed in the field of the subject matter of the particular course instructed; and

e. be approved by the board.

3. In order to qualify as an infield trainer, an applicant shall:

a. have been an actively engaged, Louisiana licensed home inspector for the three years prior to certification;

b. - d. ...

e. agree, in writing, to defend, indemnify and hold the board harmless against any claim or suit alleging negligent or intentional acts or omissions of the education provider in its training, or otherwise on a form prepared by the board and available for download from the board's website;

f. provide evidence that he has performed at least 500 legal home inspections;

g. not have been found guilty of substantial violations of the home inspector licensing law within three years prior to applying; and

h. be approved by the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1475 and R.S. 37:1485-1487.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Board of Home inspectors, LR 30:1687 (August 2004), amended by the Office of the Governor, Board of Home Inspectors, LR 31:2011 (August 2005), LR 35:1520 (August 2009), LR 36:2859 (December 2010), LR 38:2530 (October 2012), LR 41:920 (May 2015), LR 42:

§121. Continuing Education; Instructors

A.1. As a condition of license renewal, a licensee, (not renewing a license for the first time) must certify completion of at least 20 hours of continuing education during the previous licensing period, in courses approved by the board. No more than 10 hours of continuing education credit may

be carried over into the following year. Board-approved continuing education instructors may be given continuing education credit for course preparation and other activities as set forth in Paragraph F.3, below.

2. As a condition of license renewal, a first year inspector, renewing a license for the first time, must certify completion of at least 30 hours of continuing education during the previous licensing period.

B. Continuing Education Courses

1. - 4. ...

5. The licensee may receive up to eight hours of continuing education credit per licensing period for courses taught by a board certified continuing education provider, dealing with the construction industry, but outside the scope of the standards of practice.

6. The licensee may receive up to four hours of continuing education credit per licensing period for attending a quarterly or special board meeting or for serving on a committee appointed by the board and up to three hours of credit per appointment and six hours per licensing period for acting as a special investigating entity as described in §707.

7. The licensee may receive up to eight hours of continuing education credit per licensing period for each class taught by a non-approved instructor which subject matter deals with the construction industry, provided that the licensee has requested and received the approval of the Education Committee chairperson prior to the LHI's participation in the course.

8. The licensee may receive up to 10 hours of continuing education credit per licensing period for online and/or streaming video courses.

9. The licensee may receive up to a maximum of 10 hours of continuing education credit per licensing period for any combination of the following types of classes as set forth in Paragraphs 5-8 of this Subsection:

a. online courses;

b. streaming video courses;

c. courses given by an unapproved instructor and courses which are outside the scope of the standards of practice but deals with the construction industry.

10. - 11. ...

12. Any remaining balance of continuing education hours must be obtained by participation in live presentation CE classes taught by a board-certified education provider.

13. All licensees must attend a board-approved report writing and standards of practice seminar at least once every three years.

C.1. - D.2. ...

E. It is the duty of every licensee to provide proof of compliance with continuing education requirements on a timely basis. In order to receive credit from the board for completion of continuing education courses under this Section, proof of compliance in the form of a certificate of completion issued by a certified continuing education provider must be submitted.

F.1. In order to qualify as a continuing education provider instructor, an applicant shall:

a. ...

b. be a licensed home inspector from a state requiring licensure for at least three years; or, if the applicant resides in a state that does not require licensing, provide

verifiable proof that the applicant has been actively engaged in the performance of home inspections for at least three years;

c. provide evidence that he has completed at least 500 legal home inspections;

d. not have been found guilty of substantially violating these rules or the home inspector licensing law within the three years prior to his application; and

e. agree, in writing, to defend, indemnify and hold the board harmless against any claim or suit alleging negligent or intentional acts or omissions of the education provider in its training, or otherwise on a form prepared by the board and available for download from the board's website;

f. be current on all other fees (if applicable); and
g. be approved by the board.

2. ...

3. A licensee, who is also a board-approved continuing education instructor, may qualify to receive up to 10 hours of continuing education requirements per licensing period by presenting satisfactory evidence to the board of participation, other than as a student, in educational processes and programs in home inspection practices or techniques, including but not limited to any combination of teaching, program development, and preparation of textbooks, monographs, articles, or other instructional material subject to approval of the board.

4. A certified continuing education provider shall be authorized to offer any continuing education courses that teach items specifically covered within the standards of practice, without applying for prior approval of the chief operating officer and/or board. The continuing education provider shall be responsible for verifying that the course work falls within the scope of the standards of practice or building construction field.

5. ...

6. The continuing education provider shall forward copies of all sign-in sheets to the board within two weeks of the completion of the continuing education class. The continuing education provider shall retain copies of these sign-in sheets for three years from the date of completion of the continuing education class.

7. The names and contact information for all approved continuing education providers will be posted on the board's official website. At the request of a provider, the board will also post announcements of continuing education classes on its website upon written notice by the provider 30 days prior to the class.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1477 and R.S. 37:1479-1480.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Board of Home Inspectors, LR 26:2742 (December 2000), amended by the Office of the Governor, Board of Home Inspectors, LR 36:2860 (December 2010), LR 37:2405 (August 2011), LR 38:2531 (October 2012), LR 40:1003 (May 2014), LR 42:

§125. Home Inspectors Record Keeping; Inspection; Production Retention

A. ...

B. Records shall be made available, upon reasonable request, to the board's representatives during normal business hours. Such request shall be made in writing on

board stationery. The failure of a licensee to maintain adequate records or the failure to furnish copies of such records within 72 hours of receipt of a written request by the board shall constitute a violation of this rule.

C. - D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1475.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Board of Home Inspectors, LR 26:2742 (December 2000), amended by the Office of the Governor, Board of Home Inspectors, LR 36:2860 (December 2010), LR 41:920 (May 2015), LR 42:

§139. Prohibited Acts: Penalties and Costs

A. - A.11. ...

B. The board may fine any applicant or any member of the public for good cause shown, for activities which include, but are not limited to, the following:

1. - 3. ...

4. if a licensee is discovered to have willingly provided fraudulent documentation in regards to their continuing education, at the board's discretion, the licensee shall forfeit their home inspections license, without recourse.

C. - E. ...

F. The board may suspend or revoke any certification or license, or censure, fine, or impose probationary or other restrictions on any education provider (whether pre-licensing education provider, continuing education provider or infield trainer) who submits fraudulent documentation to the board regarding the education earned by a licensee or applicant.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1475 and R.S. 37:1486-1487.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Board of Home Inspectors, LR 26:2744 (December 2000), amended by the Office of the Governor, Board of Home Inspectors, LR 30:1688 (August 2004), LR 41:921 (May 2015), LR 42:

Chapter 3. Standards of Practice

§307. General Limitations

A. Home inspections done in accordance with this Chapter are visual and are not technically exhaustive.

B. This Chapter applies only to residential resale buildings.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1475.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Board of Home Inspectors, LR 26:2746 (December 2000), amended by the Office of the Governor, Board of Home Inspectors, LR 41:922 (May 2015), LR 42:

§309. General Exclusions

A. - B.15. ...

C. Home inspectors shall not:

1. - 5. ...

6. advertise or solicit to perform or perform repair services on any system or component of the home inspected or any other type of service on the home inspected from the time of the inspection until the date of the act of sale of the home.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1475 and R.S. 37:1478.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Board of Home Inspectors, LR 26:2746 (December 2000), amended by the Office of the Governor, Board of Home Inspectors, LR 30:1690 (August 2004), LR 36:2862 (December 2010), LR 38:2532 (October 2012), LR 41:922 (May 2015), LR 42:

§321. Air Conditioning and Heating System

A. - D. ...

E. The home inspector is not required to:

1. - 3. ...

4. inspect:

a. - f. ...

g. components of solid fuel heating devices, such as fire screens and doors, seals and gaskets, automatic fuel feed devices, mantles and fireplace surrounds, combustion make-up air devices, heat distribution assists, whether gravity controlled or fan assisted; or

h. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1475.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Board of Home inspectors, LR 26:2748 (December 2000), amended by the Office of the Governor, Board of Home Inspectors, LR 30:1692 (August 2004), LR 36:2863 (December 2010), repromulgated LR 38:2533 (October 2012), amended LR 41:923 (May 2015), LR 42:

Chapter 5. Code of Ethics

§501. Code of Ethics

A. ...

B. Ethical Obligations

1. - 6. ...

7. The LHI shall not solicit to repair, replace or upgrade for compensation, any system or component of the home inspected or any other type of service on the home upon which he has performed a home inspection, from the time of the inspection to the date of the act of sale of the home inspected.

8. - 15. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1475.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Board of Home Inspectors, LR 26:2749 (December 2000), amended by the Office of the Governor, Board of Home Inspectors, LR 30:1693 (August 2004), LR 36:2863 (December 2010), LR 37:2406 (August 2011), LR 41:924 (May 2015), repromulgated LR 41:2339 (November 2015), amended LR 42:

Chapter 7. Disciplinary Actions

§703. Complaints

A. - F. ...

G. Based upon a review of the records of the board kept in the ordinary course of business, the chief operating officer of the board may initiate a complaint against a licensee based upon the delinquency or failure of the licensee to make timely payment of fees, fines or assessments or upon the licensee's failure to comply with reporting requirements, continuing education requirements, insurance requirements, or other requirements of the licensee. In all such cases, the chief operating officer shall send the licensee notification by certified mail specifically outlining the delinquency or violation, including any amounts due. The licensee shall either, pay any fees and fines due, comply with any requirements stated or respond, in writing, within 14 days of receipt of the notice disputing the claim or amounts due. A licensee's failure to respond within the delays shall be prima facie proof of his noncompliance subjecting the licensee to immediate suspension.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1475, R.S. 37:1483, and R.S. 37:1485-1487.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Board of Home Inspectors, LR 26:2750 (December 2000), amended by the Office of the Governor, Board of Home Inspectors, LR 30:1693 (August 2004), LR 40:1004 (May 2014), LR 42:

§707. Investigations; Special Investigating Entity; Board Review

A. Upon receipt of a complaint filed pursuant to §703.A and conforming with this Chapter, the board shall assign a docket number to the complaint and refer it to an SIE. Any individual, licensee or member of a committee appointed to serve as an SIE shall:

1.- 4. ...

B. A copy of the complaint shall be served upon the home inspector or member of the public (respondent) in accordance with §707.D. The respondent shall submit a written response to the special investigating entity within 14 days after receipt of the copy of the complaint.

C. The SIE shall make an investigation of the charges and responses, with the sole purpose of determining whether or not the allegations listed in the complaint indicate a violation of these rules or the home inspector licensing law. The SIE shall not visit or inspect the property at issue during the investigative process, but may contact the parties involved, and any third parties, to request any further information or documentation needed to conduct the investigation. The SIE may review photographs, reports, correspondence and other documentation submitted by any party or third party in conducting the investigation. The SIE shall prepare and file a report of its findings with the board within 30 days of the completion of the investigation;

D. A copy of the report of the SIE shall be mailed by the COO to the complainant and to the respondent by certified mail. The report shall contain:

D.1. - E. ...

F. If the report states that any or all allegations of the complaint lack sufficient evidence to indicate a violation of these rules or the licensing law, the chief operating officer shall advise the complainant and respondent in writing that the evidence was insufficient to support a particular allegation or all allegations in the complaint. The chief operating officer shall also advise the complainant and respondent that, in order for any of the lacking allegations of the complaint to be reviewed by the board, the complainant must make a written request for review by the board within 15 days of mailing of the report, must support the complaint with additional documentation or evidence and must set forth specific reasons why the SIE's determination on each allegation is incorrect.

G. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1475 and R.S. 37:1485.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Board of Home Inspectors, LR 26:2750 (December 2000), amended by the Office of the Governor, Board of Home Inspectors, LR 30:1694 (August 2004), LR 40:1004 (May 2014), LR 41:924 (May 2015), LR 42:

§713. Hearing Procedure; Decision; Notice; Effective Date; Rehearing

A. - D. ...

E. A board decision or order may be reconsidered by the board at the next board meeting on its own motion, or on

motion by a party of record, for good cause shown pursuant to a written request filed at the board's office within 10 days following the date of the mailing of the final board order or decision.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1475 and R.S. 37:1485-1487.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Board of Home Inspectors, LR 26:2751 (December 2000), amended by the Office of the Governor, Board of Home Inspectors, LR 30:1695 (August 2004), LR 38:2533 (October 2012), LR 41:924 (May 2015), LR 42:

Family Impact Statement

The proposed Rule amendments have no know impact on family formation, 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

The proposed Rule should not have any known or foreseeable impact on providers as defined by HCR 170 of 2014 Regular Legislative Session. In particular, there should be no known or foreseeable effect on:

1. the staffing level requirements or qualifications required to provide the same level of service;
2. the total direct and indirect effect on the cost to the providers to provide the same level of service; or
3. the overall effect on the ability of the provider to provide the same level of service.

Public Comments

Interested parties may submit written comments to Morgan Dampier, Chief Operating Officer, Louisiana State Board of Home Inspectors, 5211 Essen Lane, Baton Rouge, LA, 70809 or by facsimile to (225) 248-1335. Comments will be accepted through the close of business on October 10, 2016.

Public Hearing

If it becomes necessary to convene a public hearing to receive comments in accordance with the Administrative Procedure Act, the hearing will be held on October 28, 2016 at 9 a.m. at the office of the state Board of Home Inspectors, 5211 Essen Lane, Suite 9, Baton Rouge, LA.

Albert J. Nicaud
Board Attorney

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Education, Training and Testing

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed rule changes to the education and training rules clarify the types of continuing education available to licensees and the number of hours awarded for each type toward their minimum requirements. The Board expects minimal costs associated with the publication of the amendments and adopted rules. Licensees and the interested public will be informed of the rule changes via the Board's

regular newsletter, email, website posting or other means of communication at a minimal cost.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There will be no effect on revenue or collections of state or local governmental units as no increase in fees will result from the amendments.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There will be no increase in costs as a result of the proposed administrative rules.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed administrative rules have no effect on competition and employment.

Albert J. Nicaud
Board Attorney
1609#078

Evan Brasseaux
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Health Radiologic Technology Board of Examiners

Radiologic Technologists
(LAC 46:LXVI.705, 713, 901, 1105, 1107, 1109,
1113, 1123, 1201, 1211, 1213, 1215, and 1217)

Notice is hereby given that the Louisiana State Radiologic Technology Board of Examiners, pursuant to the authority of R.S. 37:3207 and in accordance with the provisions of the Louisiana Administrative Procedure Act, R.S. 49:950 et seq., intends to amend its rules governing general provisions in LAC 46:LXVI. The proposed Rule change updates relevant professional language, continuing education, and eliminates a probation period that conflicts with current rules.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part LXVI. Radiologic Technologists

Chapter 7. Actions before the Board

§705. Informal Proceeding/Consent Order

A. - B. ...

C. A consent order between the board and the licensee or prospective licensee shall describe the disciplinary action which will be taken. The consent order shall be signed by the licensee or prospective licensee, and two board members.

D. - E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3207(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Radiologic Technology Board of Examiners, LR 11:869 (September 1985), amended by the Department of Health and Hospitals, Radiologic Technology Board of Examiners, LR 19:1433 (November 1993), LR 29:182 (February 2003), LR 40:2262 (November 2014), amended by the Department of Health, Radiologic Technology Board of Examiners, LR 42:

§713. Notification of Final Actions

A. Upon either completion of the decision, expiration of the time for any appeal, or conclusion of appeals, the board shall notify the following of its actions:

1. radiologic technologist named in disciplinary action;

2. - 3. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3207.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Radiologic Technology Board of Examiners, LR 11:872 (September 1985), amended by the Department of Health, Radiologic Technology Board of Examiners, LR 42:

Chapter 9. General Provisions

§901. Definitions

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

* * *

Student—any person enrolled in and attending a board approved program of radiologic technology who apply ionizing radiation to humans for necessary diagnostic or therapeutic purposes while under the supervision of a licensed practitioner or a licensed radiologic technologist at an approved clinical facilities of the sponsoring institutions.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3207(B)(2).

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Radiologic Technology Board of Examiners, LR 11:872 (September 1985), amended by the Department of Health and Hospitals, Radiologic Technology Board of Examiners, LR 23:71 (January 1997), LR 38:97 (January 2012), LR 40:2263 (November 2014), amended by the Department of Health, Radiologic Technology Board of Examiners, LR 42:

Chapter 11. Licensure

§1105. Qualifications of Applicants for Licensure

A. - A.3. ...

4. has successfully completed a course of study in radiography, radiation therapy technology, nuclear medicine technology, or fusion technologist as approved by the board in accordance with standards promulgated by the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3208 and R.S. 37:3207.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Radiologic Technology Board of Examiners, LR 11:873 (September 1985), amended by the Department of Health and Hospitals, Radiologic Technology Board of Examiners, LR 40:2263 (November 2014), amended by the Department of Health, Radiologic Technology Board of Examiners, LR 42:

§1107. Licensure by Endorsement; Reciprocity

A. Any person who holds a current certificate from the certifying boards as prescribed in R.S. 37:3210 is exempt from examination. Upon application and the payment of a fee equivalent to that required for the initial licensing fee, the board shall issue a license to such credentialed person.

B. By reciprocity, any person who is licensed as a radiologic technologist under the laws of other states, provided that the standards under which they were examined are at least as stringent as those established by the board, shall be issued a license without examination upon application and payment of a fee equivalent to that required for the initial licensing fee.

C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3210, R.S. 37:3212 and R.S. 37:3207.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Radiologic Technology Board of Examiners, LR 11:873 (September 1985), amended by the

Department of Health, Radiologic Technology Board of Examiners, LR 42:

§1109. Licensure by Examination

A. ...

1. To be eligible for examination by the board, an applicant shall possess all qualifications for licensure prescribed by R.S. 37:3208, provided, however, that an applicant who has completed or prior to examination will have completed his/her approved course of study, shall be deemed eligible for examination upon application submission to the board and program director verifies that the applicant will complete or has completed his/her radiologic technology course of study prior to examination and specifying the date of completion.

B. - C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3207, R.S. 37:3208 and R.S. 37:3209.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Radiologic Technology Board of Examiners, LR 11:873 (September 1985), amended by the Department of Health and Hospitals, Radiologic Technology Board of Examiners, LR 29:183 (February 2003), LR 40:2263 (November 2014), amended by the Department of Health, Radiologic Technology Board of Examiners, LR 42:

§1113. Follow-Up to Application Submission

A. Incomplete Applications. Applications which are received with incomplete data may cause postponement. "Incomplete notices" are mailed to those who did not provide all information requested on the application form.

B. - B.1. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3207.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Radiologic Technology Board of Examiners, LR 11:873 (September 1985), amended by the Department of Health and Hospitals, Radiologic Technology Board of Examiners, LR 40:2264 (November 2014), amended by the Department of Health, Radiologic Technology Board of Examiners, LR 42:

§1123. Expiration of License

A. ...

B. The timely submission of an accurate and complete application for renewal of a license, appropriate documentation of completion of required continuing education hours and payment of appropriate fees shall operate to continue the expiring license in full force and effect pending issuance of the renewal license.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3215 and R.S. 37:3207.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Radiologic Technology Board of Examiners, LR 11:874 (September 1985), amended by the Department of Health, Radiologic Technology Board of Examiners, LR 42:

Chapter 12. Continuing Education Requirements

§1201. Definitions

* * *

Active Status—radiologic technologists who maintain their license by submitting appropriate continuing education, paying an initial or renewal fee, and are listed in good standing with the LSRTBE.

Advanced Level CPR—category A credit will be awarded for valid advanced level CPR certification. Advanced level CPR certification is limited to the following: advanced

cardiac life support (ACLS), or pediatric advanced life support (PALS). Only one certification may be claimed per biennium. Six category A credits will be awarded on the date of certification or re-certification. A copy of a valid certification card issued by the Red Cross, the American Heart Association, or the American Safety & Health Institute will serve as documentation. CPR instructor or instructor trainer no longer receives CE credit, CE credit for basic CPR (BLS, BLS with AED, healthcare provider CPR) is not accepted.

* * *

CPR—Repealed.

* * *

Continuing Education (CE) Activity—a learning activity that is planned, organized, and administered to maintain and enhance the professional knowledge and skills underlying professional performance that a technologist uses to provide services for patients, the public, or the medical profession. Activities meeting this definition may qualify as either category A or A+ credit depending upon whether they have been submitted to review and approval by a recognized continuing education evaluation mechanism (RCEEM or RCEEM+).

1. Continuing education is recognized from the following: Louisiana Society of Radiologic Technologists, American Society of Radiologic Technologists, American Medical Association, American College of Radiology, American Nursing Association, Society of Diagnostic Medical Sonographers, American Society of Medical Dosimetrists, and the Society of Nuclear Medicine Technologists. All of these organizations and societies provide documentation of attendance for activity that they sponsors.

Continuing Education (CE) Credit—unit of measurement for CE activities. One CE credit is awarded for one contact hour (50-60 minutes). Activities longer than one hour are assigned whole or partial credits based on the 50-60 minute hour. Educational activities of 30-49 minutes duration will be awarded one-half of one CE credit. CE activities that last 15-29 minutes will receive one-quarter credit. Activities lasting less than 15 minutes receive no CE credit.

* * *

Expired Status—a radiologic technologist who fails to meet the continuing education requirements for renewal and pay appropriate fees by May 31 shall be placed on expired status. The radiologic technologist shall no longer be considered as holding a valid license in the state of Louisiana.

* * *

Probational Status—Repealed.

Recognized Continuing Education Evaluation Mechanism (RCEEM)—a mechanism for evaluating the content, quality, and integrity of an educational activity. The evaluation must include review of educational objectives, content selection, faculty qualifications, and educational methods and materials. Among the requirements for qualification as a RCEEM, an organization must be national in scope, non-profit, and willing to evaluate CE activities developed by any technologist within a given discipline. The organization must demonstrate the need for an additional RCEEM and supply evidence of sufficient experience and resources to provide for the valid and reliable evaluation of CE activities.

The RCEEM+ has all of the responsibilities of a RCEEM in addition to the evaluation and approval of radiologist extender level (R.R.A.) CE activities. The RCEEM+ is authorized to award both categories A and A+ credit depending on the content level of the activity.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3207(B)(2).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Radiologic Technology Board of Examiners, LR 21:178 (February 1995), amended LR 23:71 (January 1997), LR 40:2264 (November 2014), amended by the Department of Health, Radiologic Technology Board of Examiners, LR 42:

§1211. Biannual Application for License Renewal

A. Notification for the renewal of the license will be mailed to each radiologic technologist whose license to practice radiologic technology will expire that May 31 with the license fee due. Licensee is responsible for renewal in the event of not receiving mailed notification.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3207(B)(2).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Radiologic Technology Board of Examiners, LR 21:180 (February 1995), amended LR 23:73 (January 1997), LR 40:2265 (November 2014), amended by the Department of Health, Radiologic Technology Board of Examiners, LR 42:

§1213. Documentation

A. A licensed radiologic technologist is required to maintain proof of participation in continuing education activities and is required to attest to this participation on the form provided. Said documentation shall be provided by the radiologic technologist to the Louisiana State Radiologic Technology Board of Examiners as part of the renewal process. Failure to provide documentation acceptable to the Louisiana State Radiologic Technology Board of Examiners will result in an expired status. The Louisiana State Radiologic Technology Board of Examiners will accept copies of documents. Original documents shall be kept by the radiologic technologist for two years after the end of the licensing term for the purpose of further verification should the board choose to audit the licensees' submissions.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3207(B)(2).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Radiologic Technology Board of Examiners, LR 21:180 (February 1995), amended LR 23:74 (January 1997), amended by the Department of Health, Radiologic Technology Board of Examiners, LR 42:

§1215. Applicants for Renewal Who Fail to Meet CE Requirements

A. A radiologic technologist who applies for renewal of license, but who fails to meet the renewal requirements within the previous licensing term, will automatically be transferred to an expired status. Individuals who are listed as having an expired status, due to failure to meet these renewal requirements, status will be published on website by the Louisiana State Radiologic Technology Board of Examiners and will be reported in response to any inquiries regarding the radiologic technologist's status with the Louisiana State Radiologic Technology Board of Examiners.

B. A radiologic technologists whose license has been placed on expired status for failure to meet continuing education requirements may be returned to an approved status by payment of the appropriate fees and expenses as

specified in Section 1217 of this Chapter and performing one or more of the following:

1. passing an advanced level examination recognized by the LSRTBE;
2. passing an entry-level examination recognized by the LSRTBE in a different category;
3. completing the required continuing education hours in the six months (on or before December 31) following the May 31 expiration date and paying delinquency fee.

C. Any hours completed or other requirements met while expired may not be used to meet the continuing education requirements for the subsequent license term.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3207(B)(2).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Radiologic Technology Board of Examiners, LR 21:181 (February 1995), amended LR 40:2265 (November 2014), amended by the Department of Health, Radiologic Technology Board of Examiners, LR 42:

§1217. Fee and Expenses

A. - B.4. ...

5. delinquency fee in addition to the renewal fee for a license placed on an expired status using a postmark date:
 - a. all or part of June, July, August—\$50;
 - b. all or part of September—\$75;
 - c. all or part of October—\$100;
 - d. all or part of November—\$150;
 - e. all or part of December—\$200;

B.6. - E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3207(B)(2).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Radiologic Technology Board of Examiners, LR 21:181 (February 1995), amended LR 40:2266 (November 2014), amended by the Department of Health, Radiologic Technology Board of Examiners, LR 42:

Family Impact Statement

After considering R.S. 49:972, it is anticipated that the proposed Rule change will have no effect on the:

1. family stability;
2. authority rights of parents regarding the education and supervision of their children;
3. family function;
4. family earnings and family budget;
5. behavior and personal responsibility of children; or
6. ability of the family or a local government to perform the function as contained in the proposed Rule.

Poverty Impact Statement

After considering R.S. 49:973, it is anticipated that the proposed Rule change will have no effect on the:

1. household income, assets, and financial security;
2. early childhood or education development;
3. employment or workforce development;
4. taxes and tax credits; or
5. child and dependent care, health care, nutrition, transportation, and utilities assistance.

Small Business Analysis

The proposed Rule change is not anticipated to have an impact on small business as defined in the Regulatory Flexibility Act.

Provider Impact Statement

After considering HCR 170 of the 2014 Regular Legislative Session, it is anticipated that the proposed Rule change will have no effect on the:

1. staffing level requirements or qualifications required to provide the same level of service;
2. total direct and indirect effect on the cost to the provider to provide the same level of service; or
3. overall effect on the ability of the provider to provide the same level of service.

Public Comments

Interested persons may submit written comments on the proposed Rule to Executive Director, Louisiana State Radiologic Technology Board of Examiners, at 3108 Cleary Avenue, Suite 207, Metairie, LA 70002, telephone: (504) 838-5231. The Executive Director is responsible for responding to inquiries. Written comments will be accepted until 4 p.m., October 10, 2016.

Public Hearing

A request pursuant to R.S. 49:953(A)(2) for a public hearing must be made in writing and received by the board within 20 days of the date of this notice. Should it become necessary to convene a public hearing to receive data, views, arguments, information, or comments orally in accordance with the Louisiana Administrative Procedure Act, the hearing will be held on October 25, 2016 at 10 a.m. at the office of the Louisiana State Radiologic Technology Board of Examiners, at 3108 Cleary Avenue, Suite 207, Metairie, LA 70002. Any person wishing to attend should call to confirm that a hearing is being held by calling (504) 838-5231.

Kenneth Jones
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Radiologic Technologists

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The estimated implementation costs to the Louisiana Radiologic Technology Board of Examiners is approximately \$1,000 in FY 17 for the notice and rule publication in the *Louisiana Register*. There are no other estimated implementation costs or savings to state or local governmental units through promulgation of the proposed rules changes.

The proposed rule change updates relevant continuing education language of the profession by adding advanced level CPR as the only accepted life support credit for national radiologic technology certification. In addition, the proposed rule change eliminates a probation period that conflicts with the current rule which will change the minimum continuing education requirement from 30 minutes to 15 minutes to receive any continuing education credit.

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 only affect those already licensed by L.R.S. 37:3200-3221. The proposed rule change eliminates the probation period and requires all licenses, which are two year licenses, to be renewed by May 31. There will be no costs and/or economic benefits affecting those already licensed or non-governmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule change will not affect competition and employment.

Kenneth Jones
Executive Director
1609#018

Gregory V. Albrecht
Chief Economist
Legislative Fiscal Office

NOTICE OF INTENT

Department of Public Safety and Corrections Corrections Services

Equal Employment Opportunity and Americans with Disabilities Act—Personnel (LAC 22:I.201)

In accordance with the provisions of the Administrative Procedure Act (R.S. 49:950), the Department of Public Safety and Corrections, Corrections Services, hereby gives notice of its intent to amend the contents of Section 201, Equal Employment Opportunity (Includes Americans with Disabilities Act).

Title 22

CORRECTIONS, CRIMINAL JUSTICE AND LAW ENFORCEMENT

Part I. Corrections

Chapter 2. Personnel

§201. Equal Employment Opportunity (Includes Americans with Disabilities Act)

A. Purpose—to establish the secretary's commitment to equal employment opportunities and to establish formal procedures regarding reasonable accommodation for all employees, applicants, candidates for employment (including qualified ex-offenders) and visitors.

B. Applicability—deputy secretary, undersecretary, chief of operations, assistant secretary, regional wardens, wardens, director of Probation and Parole, director of Prison Enterprises, employees, applicants, candidates for employment (including ex-offenders) and visitors. Each unit head is responsible for ensuring that appropriate unit written policy and procedures are in place to comply with the provisions of this regulation.

C. Policy. It is the secretary's policy to assure equal opportunities to all employees, applicants, candidates for employment (including ex-offenders) and visitors without regard to race, color, religion, sex, sexual orientation, gender identity, national origin, political affiliation, disability or age.

1. Exceptions:

a. where age, sex or physical requirements constitute a bona fide occupational qualification necessary for proper and efficient operations;

b. where the implications of nepotism restrict such employment or employment opportunity; and

c. preferential hiring will be given to veterans in accordance with Chapter 22 of the Civil Service Rules.

2. Equal opportunities will be provided for employees in areas of compensation, benefits, promotion, recruitment, training and all other conditions of employment. Notices of equal employment opportunities will be posted in prominent accessible places at each employment location.

3. Equal access to programs, services and activities will be provided to all visitors. Advance notice of a requested accommodation shall be made during normal business hours to ensure availability at the time of the visit.

4. If any employee is made aware of or has reason to believe that a visitor to the unit is deaf or hard of hearing, the employee is required to advise the person that appropriate auxiliary aids and services will be provided. The employee should then direct the visitor to the unit ADA coordinator or designee. Likewise, such information must be forthcoming in response to any request for auxiliary aid or services.

D. Definitions

Age Discrimination in Employment Act (ADEA)—a federal law to protect individuals 40 years of age and over from arbitrary discrimination in employment practices, unless age is a bona fide occupational qualification. The state of Louisiana has passed similar legislation and the term *ADEA* will refer to both federal and state prohibitions against age discrimination in this regulation.

Americans with Disabilities Act (ADA)—a comprehensive federal law which requires the state to provide equal access for people with disabilities to programs, services and activities of the department, as well as to employment opportunities.

Applicant—a person who has applied for a job and whose qualification for such is unknown.

Auxiliary Aids and Services—external aids used to assist people who are hearing-impaired and may include qualified sign language or oral interpreters, written materials, telephone handset amplifiers, assistive listening devices, telephones compatible with hearing aids, closed caption decoders, open and closed captioning, telecommunication devices for deaf persons (TDD/TTY), videotext displays or other effective methods of making aurally delivered materials available to individuals with hearing impairments.

Candidate—a person who has successfully passed the required test and/or meets the Civil Service minimum qualifications for the job sought.

Disability—a physical or mental impairment that substantially limits one or more of the major life activities of an individual, including a record of such impairment or being regarded as having such impairment.

Effective Communication—communication with persons with disabilities that is as effective as communication with others. Effective communication is achieved by furnishing appropriate auxiliary aids and services where necessary to afford qualified individuals with disabilities an equal opportunity to participate in or benefit from the services, programs or activities of the department.

Equal Employment Opportunity (EEO)—the operation of a system of human resources administration which ensures an environment that will provide an equal opportunity for public employment to all segments of society based on individual merit and fitness of applicants without regard to race, color, religion, sex, sexual

orientation, gender identity, national origin, political affiliation, disability or age (except where sex, age or physical requirements constitute a bona fide occupational qualification necessary to the proper and efficient operation of the department).

a. The Equal Employment Opportunity Commission (EEOC) is the federal regulatory body for EEO related complaints and charges.

Essential Functions—basic job duties that an employee/applicant must be able to perform, with or without reasonable accommodation.

Ex-Offender—those offenders who are no longer in the physical custody of the DPS and C or no longer under the supervision of the Division of Probation and Parole.

Family and Medical Leave—leave for which an employee may be eligible under the provisions of the Family and Medical Leave Act of 1993.

Major Life Activity—walking, seeing, hearing, breathing, caring for one's self, sitting, standing, lifting, learning, thinking, working and reproduction. This list is illustrative only. The impairment to a major life activity must be long term.

Qualified Individual with a Disability—an individual with a disability (as previously defined herein) who can perform the essential functions of the job with or without reasonable accommodation.

Reasonable Accommodation—a modification or adjustment to a job, service, program or activity, etc., that enables a qualified individual with a disability to have an equal opportunity for participation.

Requestor—a person who requests an accommodation for a disability.

Seniority—a calculation of the number of years of service to the department and used in comparison to another employee's or applicant's number of years of service to the department. Seniority may be used as a factor in employment decisions but may never be used as a substitute for age discrimination.

Visitor—for the purpose of this regulation, includes any non-departmental employee who is authorized to be on institutional grounds (i.e., volunteers, contractors, official guests, etc.).

E. Procedures

1. Coordination of ADA Matters

a. The secretary will establish and designate a headquarters ADA coordinator. This employee is charged with reviewing, recording and monitoring ADA matters for the department and will also advise and make recommendations to the secretary or designee regarding such matters as appropriate.

b. Each unit head will designate a primary unit ADA coordinator to coordinate unit ADA matters. All units will prominently post the name and telephone number of the unit ADA coordinator.

2. Initiation of Requests for Accommodation

a. A qualified requestor with a known disability of a long term nature should be accommodated where reasonably possible, providing the accommodation does not constitute a danger to the requestor or others and does not create undue hardship on the department or its employees.

NOTE: If a requestor is an employee, applicant or a candidate for employment, the requestor must be able to perform the essential functions of the job with the accommodation.

b. The ADA does not require that a request for accommodation be provided in any particular manner; therefore, the department is charged with having knowledge, or deemed with having knowledge, of the request regardless of the form of the request.

c. If an employee, applicant or candidate for employment informs anyone in his chain of command, human resources personnel or the unit ADA coordinator that he has difficulty performing his job duties or participating in a program or service due to a medical condition, the employee, applicant or candidate for employment is deemed to have made a request for accommodation.

d. If a visitor informs an employee that he cannot participate in the visiting process or any other program or service that the visitor is entitled to participate in, the visitor is deemed to have made a request for accommodation.

e. Once any request for accommodation has been received, either verbally or in writing, the person receiving the request should immediately relay the request to the unit ADA coordinator or designee.

f. An employee, applicant, candidate for employment (including ex-offenders) or visitor may complete a request for accommodation form. The requestor completing the form must forward it to the unit ADA coordinator for processing.

3. Accommodation Review Process

a. Upon receipt of the completed request for accommodation form, the unit ADA coordinator shall seek to determine the following:

i. if the medical condition is of a temporary or long-term nature;

ii. if additional medical information is needed from the requestor's physician or through a second opinion. At this point of the process, the unit ADA coordinator may inform the requestor that his doctor must complete an essential function form to determine the following:

NOTE: The Index of Essential Job Functions contains the Essential Functions Form for each job category used by the Department. The Index is maintained in each unit Human Resources Office.

(a) what specific symptoms and functional limitations are creating barriers;

(b) if the limitations are predictable, subject to change, stable or progressive;

(c) how the limitations impact the requestor's ability to perform the job, and for visitors, how the limitations impact the requestor's ability to fully participate in the activities and services to which the requestor is entitled;

iii. the condition impairs a major life activity.

b. If questions remain, staff may contact the requestor's treating physician directly.

c. The unit ADA coordinator shall ensure that a formal request is submitted on a request for accommodation form and provide assistance as needed.

d. Once the initial information is gathered, a dialogue between the requestor and unit ADA coordinator regarding resolution of the problem shall begin.

e. The discussion may include the following matters:

i. if the problem is of a temporary nature, use of FMLA or sick leave, Workman's Compensation or a temporary halt of some job duties may resolve the problem;

ii. if a second medical opinion is needed, this is to be performed at the department's cost with a physician of the department's choosing;

iii. if the medical condition is deemed to be a qualified disability, this decision shall be documented;

NOTE: Due to the nature of a disability, the disability may progress and require additional modifications at a later date.

iv. the goal is to reach a mutually acceptable accommodation, if possible. The secretary or designee shall make the final decision on what the actual accommodation will be.

f. An exception to the need to make an accommodation includes, but is not limited to the following:

- i. not a qualified disability;
- ii. threat to one's self or others. Considerations are as follows:

- (a). duration of the risk involved;
- (b). nature and severity of the potential harm;
- (c). likelihood that potential harm will occur;
- (d). imminence of the potential harm;
- (e). availability of any reasonable accommodation that might reduce or eliminate the risk;

iii. undue hardship. The decision to use this exception may be made by the headquarters ADA coordinator only after consultation with the undersecretary. A written description of the problem with the requested accommodation and the difficulty anticipated by the unit should be sent to the headquarters ADA coordinator. Considerations are as follows:

- (a). scope of the accommodation;
- (b). cost of the accommodation;
- (c). budget of the department;
- (d). longevity of the accommodation;

iv. alteration would fundamentally change the nature of the program, service or activity.

4. Decision

a. Consideration should be given on a case-by-case basis.

b. The granting of leave can be an accommodation.

c. Once the decision to accommodate or not is made, the requestor shall be informed in writing of the decision of whether or not an accommodation will be made, the reason for the decision and the accommodation to be made, if applicable, including any specific details concerning the accommodation. The requestor must also be informed of the right to appeal the decision to the headquarters ADA coordinator.

i. For each decision, a copy of the packet of information containing the decision, all information used to reach the decision and all attempts to resolve the request shall be forwarded to the headquarters ADA coordinator. The unit ADA coordinator shall ensure that all requests for accommodation are properly and timely entered into the department's ADA database.

d. The original of the packet of information concerning the request with the decision shall be maintained in a confidential file for three years after the requestor has left the department's employ or notification has been received that a requestor no longer wishes to be afforded visitor status.

5. Appeal

a. The requestor has the right to appeal the unit's decision for the following reasons only:

i. the finding that the medical condition is not a qualifying disability;

ii. the denial of an accommodation; or

iii. the nature of the accommodation.

b. The requestor shall forward the appeal of the unit's decision to the headquarters ADA coordinator.

c. At the discretion of the headquarters ADA coordinator, additional information or medical documentation may be requested.

d. After consultation with the undersecretary, the headquarters ADA coordinator shall issue a written appeal decision to the requestor, a copy of which shall also be sent to the appropriate unit head and unit ADA coordinator.

e. No additional appeal will be accepted as the headquarters ADA coordinator's decision shall be final.

6. Recordkeeping

a. The headquarters ADA coordinator shall maintain records of all requests for accommodation made throughout the department.

b. To ensure uniform and consistent compliance with the provisions of this regulation, the headquarters ADA coordinator shall maintain and track statistics concerning all requests for accommodation from employees, applicants, candidates for employment and visitors and the nature and outcome of the accommodations requested.

c. If a pattern becomes apparent following review of the statistics, the headquarters ADA coordinator will seek to remedy and/or correct any problems noted and report same to the secretary.

7. Essential Job Functions

a. General Requirements

i. Employment candidates must complete an essential functions form at the time of interview for employment and/or return to employment. Employees may be required to complete an up-to-date essential functions form as appropriate and when deemed necessary by the unit head in order to ensure that the fundamental mission of the department is sustained.

ii. The index of essential job functions contains the essential functions form for each job category used by the department. The index is maintained in each unit human resources office.

b. Employee and Unit Specific Requirements. Employees may be required to complete an up-to-date essential functions form under the following conditions (not necessarily all inclusive):

i. exhaustion of sick leave and if applicable, exhaustion of FMLA entitlement;

ii. expressed inability to participate in a mandatory work-related activity (i.e., training) and/or to perform essential job functions; and/or

iii. appearance of the inability to perform essential job functions. When any of the described conditions exist, the unit head will require the employee to provide a new essential functions form and "medical certification" from the employee's health care provider so the employee's status under the ADA can be assessed. The medical certification

form must include a prognosis, whether the condition is temporary or permanent, when the condition began, the expected date of return to duty, whether the employee is able to perform the essential functions of the job with or without accommodation and a description of the accommodation needed.

NOTE: In certain situations, a second opinion by an independent third party may be appropriate. This opinion will be at the unit's expense.

8. Conciliation Options for EEO and ADA Concerns

a. Should a requestor feel that he has experienced discrimination in any manner or not be satisfied with the results of the request for accommodation, he may seek conciliation through Corrections Services' grievance process, through the EEOC for employment related complaints and/or the U.S. Department of Justice (USDOJ) for issues not related to employment.

b. Requestors are encouraged to use the internal procedures to address and resolve complaints to the extent possible. Use of these internal procedures does not restrict a requestor from filing with the appropriate federal agency prior to exhaustion of the department's internal process(es).

9. Departmental Conciliation of EEO and ADA Matters

a. The headquarters Human Resources Section shall coordinate the department's response(s) to complaints and charges of discrimination regarding equal employment opportunity matters. Complaints/charges may be addressed through the internal grievance procedure when such a grievance has been filed and heard at the appropriate unit levels.

b. For formal charges generated by the EEOC or the USDOJ, the unit head and the applicable unit's attorney will develop the department's response and conciliation opinion (if applicable.) Any unit receiving a "notice of charge of discrimination" document from the EEOC or similar notice from the USDOJ shall forward the notice to the headquarters legal services upon receipt.

10. Employment Applications of Ex-Offenders

a. All applications for employment received from persons who are ex-offenders will be reviewed by a committee appointed by the secretary. The committee shall be composed of the chief of operations or designee, assistant secretary or designee and the headquarters human resources director or designee. Consideration will be given to the unit head's recommendation, the ex-offender's crime, sentence, institutional record and length of time free from other convictions. The committee's recommendations will then be submitted to the secretary or designee for review with the unit head.

b. Ex-offenders will not be eligible for employment in positions which require an employee to carry a firearm in the performance of duty. This restriction is based on applicable Civil Service job qualifications and state and federal law.

11. Training

a. The department shall provide comprehensive annual training for all departmental personnel regarding this regulation.

b. Additional information pertaining to EEO, ADA and ADEA is available in any human resources office.

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

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Corrections Services, LR 26:1308 (June 2000), amended LR 35:2194 (October 2009), LR 42:

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, Deputy Assistant Secretary, Department of Public Safety and Corrections, P. O. Box 94304, Baton Rouge, LA 70804 until 4:30 p.m. on October 10, 2016.

James M. Le Blanc
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Equal Employment Opportunity and Americans with Disabilities Act—Personnel

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed rule changes have no estimated implementation costs (savings) to state or local governmental units. The proposed changes are to amend the contents of Section 201 Equal Employment Opportunity (Includes Americans with Disabilities Act) to provide updates to bring the rules into compliance with Civil Service rules.

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 amendment.

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 as a result of the proposed amendment.

Thomas C. Bickham
Undersecretary
1609#020

Evan Brasseaux
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Revenue Policy Services Division

Public Registry of Motion Picture Investor Tax Credit Brokers (LAC 61:III.2701)

Under the authority of R.S. 15:587, R.S. 47:287.785, R.S. 47:295, R.S. 47:1511, and R.S. 47:6007 and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Revenue, Policy Services Division, proposes to adopt LAC 61:III.2701.

The primary purpose of this proposed regulation is to create a Public Registry of Motion Picture Investor Tax Credit Brokers as required by Act 451 of the 2015 Regular Session of the Louisiana Legislature.

Title 61

REVENUE AND TAXATION Provisions

Chapter 27. Transferable Income and Franchise Tax Credits

§2701. Public Registry of Motion Picture Investor Tax Credit Brokers

A. This Section is applicable to all persons or persons employed by or representing an entity engaged in the sale or brokerage of motion picture investor tax credits which are granted, issued or authorized by the state pursuant to R.S. 47:6007. Every person who meets any of the below-provided requirements shall be subject to the requirements of R.S. 47:6007(C)(7).

B. Definitions

Actively Participate—any person or person employed by or representing an entity in a sale/brokerage of motion picture tax credits when the person:

a. holds himself/herself out to be engaged in the business of selling or brokering motion picture investor tax credits either on their own behalf or on behalf of the entity; or

b. has a history of frequent, regular, and repeated sales of motion picture investor tax credits either on their own behalf or on behalf of the entity; or

c. did not purchase the credits at issue for his/her/its own personal use. Any person failing to meet any of the above-mentioned criteria shall be presumed a non-seller or non-broker and thus not subject to the requirements of R.S. 47:6007(C)(7).

Broker—any person or person employed by or representing an entity which facilitates the sale of a tax credit issued pursuant to R.S. 47:6007 between a transferor and a transferee in exchange for consideration. However, the term “broker” shall be limited to and include only those persons who actively participate, as defined herein, in the marketing or sale of motion picture investor tax credits and shall not include:

a. the entity which earns the motion picture investor credit pursuant to R.S. 47:6007, its affiliates or taxpayer members who receive tax credits via allocation, as verified by Department Form R-6135 and R-6140; or

b. a tax return preparer or an employee of a partner affiliated with the tax return preparer, who facilitates the sale of tax credits for the benefit of his or her client.

Department—Louisiana Department of Revenue

Secretary—the secretary of the Department of Revenue.

Seller—any person or person employed by or representing an entity which transfers title or ownership of a tax credit issued pursuant to R.S. 47:6007 to a transferor in exchange for consideration. The term “seller” shall be limited to those persons who actively participate, as defined herein, in the marketing, sale, or acquisition for resale of motion picture investor tax credits and shall not include the entity which earns the motion picture investor credit pursuant to R.S. 47:6007, its affiliates or taxpayer members who receive tax credits via allocation, as verified by department Form R-6135 and R-6140.

Tax Return Preparer—any person who prepares for compensation, or who employs one or more persons to prepare for compensation, all or a substantial portion of any return of tax or any claim for refund of tax under the *Internal Revenue Code* or the *Louisiana Revised Statutes*.

C. Initial Registration. Beginning January 1, 2016, all sellers or brokers of motion picture investor tax credits shall apply for the registry and be deemed qualified after meeting the requirements of R.S. 47:6007(C)(aa)-(cc) and undergoing a criminal history background examination by the Louisiana Bureau of Criminal Identification and Information as provided for in R.S. 15:587(A)(1)(h) at the expense of the applicant. Applicants for the registry shall follow the procedure for registration as provided below in Subsection D. However, no seller or broker shall be prevented from transferring motion picture investor tax credits until the effective date of this regulation.

1. Any person deemed qualified to sell or broker motion picture investor tax credit shall be included in the public registry of motion picture investor tax credit brokers, which shall be maintained by the department and made available on its website, www.revenue.la.gov/brokerregistry.

2. No person may sell or broker motion picture investor tax credits on or after the effective date of this regulation without first qualifying for and being included on the public registry of motion picture investor tax credit brokers. All transfers made on or after the effective date of this regulation by a person subject to the requirements of R.S. 47:6007(C)(7) who is not listed on the public registry of motion picture investor tax credits shall be inoperable and of no legal effect and any such transfers shall be deemed ineligible for registration in the Louisiana tax credit registry established pursuant to R.S. 47:1524. Further, failure to so qualify and register with the department prior to selling or brokering tax credits issued pursuant to R.S. 47:6007 shall be punishable by a fine of not more than ten thousand dollars or imprisonment at hard labor for not more than five years, or both. In addition to the foregoing penalties, a person convicted under the provisions of R.S. 47:6007(C)(7) shall be ordered to make full restitution to any person who has suffered a financial loss as a result of this offense. If a person ordered to make restitution is found to be indigent and therefore unable to make restitution in full at the time of conviction, the court shall order a periodic payment plan consistent with the person's ability to pay.

3. Any person who is determined to no longer be in compliance with the requirements of R.S. 47:6007(C)(7) and LAC 61:III.2701.C after initial qualification may be removed from the public registry of motion picture investor tax credit brokers and prohibited from thereafter engaging in

the transfer, sale or brokerage of motion picture investor tax credits.

D. Procedure for Registration. Applicants seeking to register with the public registry of motion picture tax credit brokers must follow the below procedures.

1. Submit a completed Form R-6130, Public Registry of Motion Picture Tax Credit Brokers, from the LDR website via either e-mail to TaxCredit.Registry@la.gov or mail to:

Louisiana Department of Revenue
Attn: Tax Credit Registry
P.O. Box 1071
Baton Rouge, LA 70821

2. Upon receipt of a completed Form R-6130, the LDR will send the applicant an LDR completed Louisiana State Police (LSP) authorization form and rap disclosure form to the applicant provided e-mail or address. The bottom portion of both forms should be completed and signed by the applicant. Both forms and payment must be presented to LSP when requesting a background check in person or via mail.

3. Applicants seeking registration have two options for obtaining the required fingerprint-based background check. They are as follows:

a. electronically submit Fingerprints at the Louisiana State Police Headquarters facility located at 7919 Independence Boulevard, Baton Rouge, LA 70806. Applicants must present the following for completion of the background check:

i. payment of all applicable fees, including fingerprint fee and processing fee, via credit card, business check, cashier's check, or money order. Contact the LSP for details;

ii. a completed LSP authorization form;

iii. a completed LSP rap disclosure form;

NOTE: A response from the LSP is typically generated in 3-5 business days. Upon receipt of this information, a final determination from the LDR is typically generated in an additional 3-5 business days.

b. obtain fingerprint cards from one of the listed law enforcement locations <http://www.myfbireport.com/locations/lawEnforcement/LA.php> and mail the request for background check with all completed documents and fees to the below address:

Louisiana State Police
Criminal Records
P.O. Box 66614
Baton Rouge, LA 70896

c. the request must contain the following items:

i. two sets of original fingerprints with all required information fields completed on the card;

ii. payment of all applicable fees, including fingerprint fee and processing fee, via credit card, business check, cashier's check, or money order. Contact the LSP for details;

iii. a completed LSP authorization form;

iv. a completed LSP rap disclosure form.

NOTE: A response from the LSP is typically generated in 15-21 business days from the date payment is entered into the LSP receipt system. Upon receipt of this information, a final determination from the LDR is typically generated in an additional 3-5 business days.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:587(1)(h), R.S. 47:6007 and R.S. 47:1511.

HISTORICAL NOTE: Promulgated by the Department of Revenue, Policy Services Division, LR 42:

Family Impact Statement

The proposed adoption of LAC 61:III.2907, regarding the creation of the public registry of motion picture investor tax credit brokers, should not have any known or foreseeable impact on any family as defined by R.S. 49:972(D) or on family formation, stability and autonomy. Specifically, the implementation of this proposed rule will have no known or foreseeable effect on:

1. the stability of the family;
2. the authority and rights of parents regarding the education and supervision of their children;
3. the functioning of the family;
4. family earnings and family budget;
5. the behavior and personal responsibility of children;
6. the ability of the family or a local government to perform this function.

Poverty Impact Statement

The proposed regulation will have no impact on poverty as described in R.S. 49:973.

Small Business Analysis

It is anticipated that the proposed Rule should not have a significant adverse impact on small businesses as defined in the Regulatory Flexibility Act. The agency, consistent with health, safety, environmental and economic factors has considered and, where possible, utilized regulatory methods in drafting the proposed Rule to accomplish the objectives of applicable statutes while minimizing any anticipated adverse impact on small businesses.

Provider Impact Statement

The proposed regulation will have no known or foreseeable effect on:

1. the staffing levels requirements or qualifications required to provide the same level of service;
2. the total direct and indirect effect on the cost to the provider to provide the same level of service;
3. the overall effect on the ability of the provider to provide the same level of service.

Public Comments

Any interested person may submit written data, views, arguments or comments regarding this proposed regulation to Brad Blanchard, Attorney Supervisor, Policy Services Division, Office of Legal Affairs by mail to P.O. Box 44098, Baton Rouge, LA 70804-4098. All comments must be received no later than 4 p.m., October 26, 2016.

Public Hearing

A public hearing will be held on October 27, 2016, at 10 a.m. in the La Belle Room, on the first floor of the LaSalle Building, 617 North Third Street, Baton Rouge, LA 70802.

Kimberly Lewis Robinson
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Public Registry of Motion Picture Investor Tax Credit Brokers

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

This rule implements the procedures the Department of Revenue (LDR) will use to administer the Public Registry of

Motion Picture Tax Credit Brokers in conformity with Act 451 of the 2015 Regular Session. The registry will be created and maintained by LDR and made available publicly on its website.

When Act 451 was under debate, LDR indicated that a general fund position requiring a new appropriation of about \$60,000 annually would be required to implement and administer the new registry. However, under the proposed rule, LDR indicates that implementing and administering the new registry will require a small, indeterminable amount of resources that will be absorbed by LDR's existing budget allocation using self-generated revenue.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

This rule does not change the availability of film credits or the means by which they are claimed. The rule may allow a more thorough screening process under which some film credits may not change hands, though there is no way to determine whether this action would prevent the transfer or force the transfer through other means. Thus, there is no direct revenue impact associated with this bill as it appears to be a measure more in keeping the program participants in good standing than disqualifying credits.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Broker qualifications include no prior convictions for matters related to tax, credit or fraud, and prohibit registration by a family member of an Office of Entertainment Industry Development (OEID) or LDR employee or those employed by OEID in the prior 2 years. Registrants must submit and pay for a criminal background check by the Louisiana Bureau of Criminal Identification and Information, who will also query the Federal Bureau of Investigation. A person selling or brokering film tax credits without registering shall be fined up to \$10,000 or imprisoned for 5 years or both with full restitution for any financial loss as a result of not registering.

Sellers or brokers of motion picture investment tax credits will be required to undergo a background screening and to apply for registry in the Public Registry of Motion Picture Tax Credit Brokers at their own expense. The Louisiana State Police has indicated the fingerprinting and background search will cost \$50.75 per applicant. Without this expense, individuals will no longer be eligible to broker motion picture tax credits. LDR estimates there are less than 20 brokers currently selling credits in Louisiana.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This proposed rule should not affect competition or employment.

Kimberly Lewis Robinson
Secretary
1609#079

Gregory V. Albrecht
Chief Economist
Legislative Fiscal Office

NOTICE OF INTENT

Department of Transportation and Development Professional Engineering and Land Surveying Board

Re-Examinations (LAC 46:LXI.1315)

Under the authority of the Louisiana professional engineering and land surveying licensure law, R.S. 37:681 et seq., and in accordance with the Administrative Procedure Act, R.S. 49:950 et seq., notice is hereby given that the Louisiana Professional Engineering and Land Surveying Board has initiated procedures to amend its rules contained in LAC 46:LXI.1315.

This is a technical revision of existing rules under which LAPELS operates. The revision limits applicants to seven examination attempts on certain examinations.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part LXI. Professional Engineers and Land Surveyors

Chapter 13. Examinations

§1315. Re-Examinations

A. Except as otherwise provided in Subsections B and C, an individual who fails an examination is eligible to apply to retake the examination. A request for re-examination must be submitted in writing prior to the deadline for scheduling of the examination.

B. After an individual has failed a principles and practice of engineering examination, principles and practice of land surveying examination or Louisiana laws of land surveying examination in any and all jurisdictions for the seventh time, he/she is no longer eligible for licensure.

C. After an individual has failed a principles and practice of engineering examination, principles and practice of land surveying examination or Louisiana laws of land surveying examination, he/she may be required to appear before the board, or a committee of the board, for an oral interview/oral examination.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:688.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Board of Registration for Professional Engineers and Land Surveyors, LR 2:353 (November 1976), amended LR 4:516 (December 1978), LR 5:114 (May 1979), LR 7:647 (December 1981), LR 12:692 (October 1986), LR 16:774 (September 1990), LR 19:57 (January 1993), amended by the Department of Transportation and Development, Professional Engineering and Land Surveying Board, LR 27:1031 (July 2001), LR 30:1715 (August 2004), LR 32:1620 (September 2006), LR 35:1909 (September 2009), LR 36:1034 (May 2010), LR 39:2283 (August 2013), LR 42:

Family Impact Statement

In accordance with R.S. 49:953(A)(1)(a)(viii) and 972, the following Family Impact Statement is submitted with the Notice of Intent for publication in the *Louisiana Register*: The proposed Rule has no known impact on family formation, stability or autonomy.

Poverty Impact Statement

In accordance with R.S. 49:953(A)(1)(a)(ix) and 973, the following Poverty Impact Statement is submitted with the Notice of Intent for publication in the *Louisiana Register*. The proposed Rule has no known impact on child, individual or family poverty in relation to individual or community asset development.

Provider Impact Statement

In accordance with HCR No. 170 of the 2014 Regular Session, the following Provider Impact Statement is submitted with the Notice of Intent for publication in the *Louisiana Register*. The proposed Rule has no known effect on the staffing level requirements or qualifications required to provide the same level of service, the cost to the provider to provide the same level of service or the ability of the provider to provide the same level of service.

Public Comments

Interested parties are invited to submit written comments on the proposed Rule through October 10, 2016 at 4:30 p.m., to Donna D. Sentell, Executive Director, Louisiana

Donna D. Sentell
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Re-Examinations**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO
STATE OR LOCAL GOVERNMENT UNITS (Summary)**

There are no estimated implementation costs or savings to state or local governmental units resulting from this proposed rule change. The proposed rule change limits examination attempts to seven for the following examinations: principles and practice of engineering, principles and practice of land surveying, and Louisiana laws of land surveying. The current rule allows up to ten attempts before eligibility to retake the exams is revoked.

**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 this proposed rule change.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO
DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL
GROUPS (Summary)**

For those individuals who fail to pass the principles and practice of engineering examination, the principles and practice of land surveying examination or the Louisiana laws of land surveying examination after seven attempts, they would forever lose the ability to attain licensure, which may negatively impact those individuals earning potential. The number of individuals who fail to pass the affected examinations after seven or more attempts is indeterminable.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT
(Summary)**

No impact on competition and employment in the public and private sectors is anticipated.

Donna D. Sentell
Executive Director
1609#075

Evan Brasseaux
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

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

Removal of Abandoned Crab Traps (LAC 76:VII.367)

Notice is hereby given in accordance with the Administrative Procedure Act, R.S. 49:950 et seq., and through the authority granted in R.S. 56:332(N), that the Wildlife and Fisheries Commission proposes to amend 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). The Wildlife and Fisheries Commission now proposes to amend the provisions 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.

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 from 12 a.m., Monday, February 20, 2017 through 11:59 p.m. Tuesday, March 7, 2017 within that portion of Jefferson Parish, Lafourche Parish, Orleans Parish, Plaquemines Parish, St. Bernard Parish, St. Charles Parish, St. John the Baptist, St. Tammany Parish, and Tangipahoa Parish, as described below:

1. areas seaward out to the inside/outside shrimp line from a point originating at the intersection of Interstate 10 at the Mississippi/Louisiana state line westward along Interstate 10 to its intersection with Interstate 12. Thence westward along Interstate 12 to the intersection of Interstate 55; Thence southward along Interstate 55 to its intersection with Interstate 10; thence eastward along Interstate 10 to its intersection with Interstate 310; thence southward along Interstate 310 to its intersection with Louisiana Highway 90; thence westward along Highway 90 to its intersection with Bayou Lafourche; thence southward along Bayou Lafourche to Belle Pass.

B. The use of crab traps shall be prohibited from 12 a.m., Monday, March 6, 2017 through 11:59 p.m. Tuesday, March 21, 2017 within that portion of Acadia Parish, Assumption Parish, Calcasieu Parish, Cameron Parish, Iberia Parish, Jefferson Davis Parish, Lafayette Parish, Lafourche Parish, St. Martin Parish, St. Mary Parish, Terrebonne Parish and Vermilion Parish, and as described below:

1. areas seaward out to the inside/outside shrimp line from a point originating at Belle Pass northward along Bayou Lafourche to its intersection with Louisiana Highway 90; thence westward along Highway 90 to its intersection with Interstate 10; thence westward along Interstate 10 to its intersection with the Texas/Louisiana state line.

C. All crab traps remaining in the closed area during the specified period shall be considered abandoned. These 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. Louisiana Department of Wildlife and Fisheries personnel or its designees are authorized to remove these abandoned crab traps within the closed 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 38:12 (December, 2012), LR 40:96 (January, 2014), LR 41:154 (January, 2015), LR 42:70 (January, 2016), LR 42:

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

Interested persons may submit written comments relative to the proposed Rule to Mr. Jeff Marx, Marine Fisheries Biologist DCL-B, Marine Fisheries Section, 2415 Darnall Rd., New Iberia, LA 70560, or via email to jmarx@wlf.la.gov prior to November 1, 2016.

Bart Yakupzack
Chairman

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Removal of Abandoned Crab Traps

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rule change will have no impact on state or local governmental unit expenditures.

The proposed rule change would prohibit the use of crab traps within portions of Jefferson, Lafourche, Orleans,

Plaquemines, Saint Bernard, Saint Charles, Saint John the Baptist, Saint Tammany, and Tangipahoa parishes from 12:00 a.m., February 20, 2017, through 11:59 p.m., March 7, 2017, and within portions of Acadia, Assumption, Calcasieu, Cameron, Iberia, Jefferson Davis, Lafayette, Lafourche, Saint Martin, Saint Mary, Terrebonne, and Vermilion parishes from 12:00 a.m., March 6, 2017, through 11:59 p.m., March 21, 2017. During the closures, the Louisiana Department of Wildlife and Fisheries or its designees will remove and destroy any crab traps remaining in the water within the designated areas.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rule change is anticipated to have no impact 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 overall impact of the proposed area closure is anticipated to be minimal because the closure would occur during the time of the year with lowest harvests, and, under current regulations, adjacent waters will remain open for crab fishermen to continue to fish.

Crab fishermen who utilize the area proposed for closure will incur lost fishing time during the designated period and encounter additional costs from having to temporarily remove their traps. These crab fishermen must either move their traps to open fishing areas or remove their traps from the water for the duration of the closure. Traps that are not removed within the allotted time will be destroyed, potentially creating an additional cost to replace the traps for noncompliant fishermen.

Local seafood dealers, processors and consumers may experience a slight decrease in the availability of fresh crabs during the closure, resulting in a slightly higher price for fresh crabs in the short term. However, the crab resource will not be lost or harmed in any way and will be available for harvest when the closed area is reopened.

The removal of abandoned crab traps should provide improved fishing and reduced fishing costs for recreational saltwater fishermen, commercial fishermen and individuals who operate vessels within the designated areas by reducing encounters with abandoned traps that often result in lost fishing time and damage to the vessel's lower unit or fishing gear. The removal of abandoned crab traps will reduce the mortality of and injuries to crabs and by-catch that become ensnared and die in these traps.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

Because waters adjacent to the closure area will remain open for crab harvest under current regulations and fishermen who fish during this time period are expected to relocate their traps, effects on competition and employment are expected to be negligible.

Bryan McClinton
Undersecretary
1609#076

Evan Brasseaux
Staff Director
Legislative Fiscal Office

Committee Reports

DECLARATION OF EMERGENCY

Louisiana Senate Committee on Judiciary C

Emergency Rule Review—Parole Eligibility and Types (LAC 22:XI.304)

Editor's Note: The Emergency Rule reviewed by the Senate Committee on Judiciary C was printed in the August 20, 2016 *Louisiana Register* and can be viewed on pages 1268-1269.

September 9, 2016

Report Pursuant to R.S. 49:968(F)

On September 9, 2016, the Senate Committee on Judiciary C held an interim meeting to consider an emergency rule proposed by the Board of Pardons and Parole relative to parole eligibility for offenders serving life sentences for homicides committed when the offenders were juveniles.

Following testimony by the board and various stakeholders, as well as public comment and questions from the members, the committee determined the following:

(1) The Board of Pardons and Parole had not sufficiently articulated "an imminent peril to the public health, safety, or welfare" that would justify the adoption of an emergency rule pursuant to R.S. 49:953(B)(1)(a).

(2) The emergency rule was outside the scope of the enabling legislation, in particular R.S. 15:574.2(D)(7), in that it was inconsistent with present law relative to the eligibility of prisoners for parole and the conditions of parole.

(3) The agency, through the emergency rule, had usurped legislative authority and thereby violated separation of powers.

(4) There had been no opportunity for public comment regarding the adoption of the rule.

Accordingly, the committee determined the emergency rule to be unacceptable.

Respectfully submitted,
Dan Claitor
Chairman

1609#081

Potpourri

POTPOURRI

Department of Agriculture and Forestry Office of Agricultural and Environmental Sciences

Supplement to Annual Quarantine Listing for 2016
Sweet Potato Weevil (LAC 7:XV.Chapter 1)

In accordance with the Administrative Procedure Act (R.S. 49:950 et seq.), R.S. 3:1652, R.S. 3:1732 and LAC 7:XV.107 and 109, the annual quarantine listing for 2016 is being supplemented to include the following quarantines and locations.

1.0 Sweetpotato Weevil (*Cylas formicarius elegantulus* Sum)

- (a). ...
- (b). In the state of Louisiana:
 - 1). ...
 - 2). The properties located at the following coordinates: -91.635682, 32.004793; -91.644937, 32.005773; 32.480556, -91.505, and any properties within a 300-yard radius of these coordinates.

Mike Strain, DVM
Commissioner

1609#048

POTPOURRI

Board of Elementary and Secondary Education

Notice of Public Hearing—Bulletin 1922—Compliance
Monitoring Procedures (LAC 28:XCI.Chapters 1-3)

On June 22, 2016, the State Board of Elementary and Secondary Education (BESE) approved, as a Notice of Intent, revisions to *Bulletin 1922—Compliance Monitoring Procedures*: §101, Monitoring; §105, Local Educational Agencies (LEAs); §107, Corrective Action and Sanctions; §109, Components of the Continuous Improvement Monitoring Process; §301, Categories of Monitoring; §303, Timelines; §305, On-Site Visits; §307, Regulatory Issues Reviewed On-Site; §311, Activities Conducted During the On-Site Visit; and §313, Activities/Procedures at the Completion of the On-Site Visit. This Notice of Intent was published on pages 1328-1331 of the August 20, 2016 issue of the *Louisiana Register*. A request for a public hearing on this Notice of Intent was received. In accordance with R.S. 49:953.A(2)(a) and R.S. 49:953.A(2)(b)(i), BESE will hold a public hearing on September 29, 2016 at 1:00 p.m. in Room 1-100, the Louisiana Purchase Room, located in the Claiborne Building, 1201 North Third Street, Baton Rouge, LA.

Shan N. Davis
Executive Director

1609#081

POTPOURRI

Department of Natural Resources Office of Conservation

Orphaned Oilfield Sites

Office of Conservation records indicate that the oilfield sites listed in the table below have met the requirements as set forth by section 91 of Act 404, R.S. 30:80 et seq., and as such are being declared orphaned oilfield sites.

Operator	Field	District	Well Name	Well Number	Serial Number
Paradigm Operating, Inc.	Liverpool	L	Vua;Lucy Lee	001	227109
Paradigm Operating, Inc.	Liverpool	L	Vub;Mina Travis	001	227762
Paradigm Operating, Inc.	Liverpool	L	Lucy Lee Swd	002	236734
Southern Oil and Gas Company	Caddo Pine Island	S	T M Hart A	005	194982
Sally Oil Company	Caddo Pine Island	S	Mathieu	001	159831
Sally Oil Company	Caddo Pine Island	S	Mathieu	002	159832
Sally Oil Company	Caddo Pine Island	S	Mathieu	004	173232
Palmer Corp. of La.	Wildcat-No La Monroe Dist	M	Holdiness	001	14312
Sellwood, Myers	Caddo Pine Island	S	Daridson	001	17576
J. C. Carradine	Welsh	L	Welsh	003	5391
John P.L. Griffin	Caddo Pine Island	S	J Wall	001	23952
Orleans Oil And Gas Corporation	Wildcat-So La Lafayette Dist	L	Dominion	002	6162
V. H. Brumley	Pendleton-Many	S	Mrs Kate Lucius et al	001	96374
Hunt Oil Co., et al	Wildcat-No La Monroe Dist	M	Angelina Hardwood Co	C-5	46882

Operator	Field	District	Well Name	Well Number	Serial Number
Professional Petr. Servs, Inc.	Washington	L	Lawrence Thistle-thwaite	001	159326
Lionel Hawkins	Zwolle	S	Byrd	001	14985

Richard P. Ieyoub
Commissioner

1609#049

POTPOURRI

Department of Public Safety and Corrections Oil Spill Coordinator's Office

Gretna/Mississippi River Oil Spill
Notice of Intent to Conduct Restoration Planning

AGENCIES: Louisiana Oil Spill Coordinator's Office, Department of Public Safety and Corrections (LOSCO); Coastal Protection and Restoration Authority of Louisiana (CPRA); Louisiana Department of Environmental Quality (LDEQ); Louisiana Department of Natural Resources (LDNR); Louisiana Department of Wildlife and Fisheries (LDWF); National Oceanic and Atmospheric Administration (NOAA); and the U.S. Department of the Interior (DOI), represented by the U.S. Fish and Wildlife Service (USFWS), collectively referred to herein as the "trustees".

AUTHORITIES: The Oil Pollution Act of 1990 (OPA) (33 U.S.C. §2701 et seq.) and the Louisiana Oil Spill Prevention and Response Act of 1991 (OSPRA) (La. Rev. Stat. 30:2451 et seq.) are the principal federal and state statutes, respectively, authorizing federal and state agencies and tribal officials to act as natural resource trustees for the recovery of damages for injuries to natural resources and services resulting from oil spills in Louisiana. In accordance with OPA and OSPRA, the trustees have determined that impacts to natural resources and services resulting from the unauthorized discharge of oil from Barge DM932, owned and operated by American Commercial Lines, Inc. (ACL) into the Mississippi River beginning on or about July 23, 2008 (NRDA case file #LA2008_0723_0230 [Gretna/Mississippi River 2008]), referred to herein as the "incident," warrants conducting a natural resource damage assessment (NRDA) that will include restoration planning. ACL is the responsible party and therefore is liable for natural resource damages resulting from the incident.

PURPOSE: Based on determinations required by 15 C.F.R. §§990.41(a) and 990.42(a), and in accordance with the regulations for OPA at 15 C.F.R. §990.44 and OSPRA at LAC 43:XXIX.123, the trustees are issuing this NOI to inform the public that they are proceeding to the restoration planning phase of the NRDA, seeking restoration project ideas for the incident, and will be opening an administrative record (AR) pursuant to 15 C.F.R. §990.45 and LAC 43:XXIX.127. The AR will be available to the public and document the basis for the trustees' decisions pertaining to injury assessment and selection of restoration alternatives. The trustees intend to assess injuries to natural resources and

services resulting from the incident and identify restoration alternatives that will restore, replace, rehabilitate, or acquire the equivalent of those injured or lost natural resources and services.

SUMMARY OF INCIDENT: On or about July 23, 2008, Barge DM932 was struck broadside by the M/V Tintomora. The collision compromised the internal compartment of Barge DM932, causing Barge DM932 to discharge a significant amount of oil into the Mississippi River. Natural resources within the Mississippi River were exposed to oil as a result of the incident.

The Mississippi River contains natural resources that provide services to the public. These natural resources and services have been exposed to oil and have experienced injury, including mortality. Natural resources and services potentially injured or lost as a result of the incident and the associated response effort may include, but are not limited to, shorelines, aquatic organisms, birds, and recreation.

The trustees began the pre-assessment/field investigation phase of the NRDA in accordance with 15 C.F.R. §990.43 and LAC 43:XXIX.117 to determine if they had jurisdiction to pursue restoration under OPA and OSPRA, and, if so, whether it was appropriate to do so. During the pre-assessment phase, the trustees collected and analyzed, and are continuing to analyze, the following: (1) data reasonably expected to be necessary to make a determination of jurisdiction and/or a determination to conduct restoration planning; (2) ephemeral data; and (3) information needed to design or implement anticipated assessment activities as part of the restoration planning phase. Activities included, among other things, observational data collection about oiled habitats and wildlife, information about impacts to recreation as a result of the incident, and collection of dead fish and wildlife.

Under the NRDA regulations applicable to OPA and OSPRA, the trustees prepare and issue a notice of intent to conduct restoration planning (NOI) if they determine conditions that confirm the jurisdiction of the trustees and the appropriateness of pursuing restoration of natural resources have been met. This NOI announces that the trustees have determined to proceed with restoration planning to fully evaluate, assess, quantify, and develop plans for restoring, rehabilitating, replacing, and/or acquiring the equivalent of injured natural resources and losses resulting from the incident. The restoration planning process will include collection of information that the trustees determine is appropriate for identifying and quantifying the injuries and losses of natural resources, including services, and to determine the need for, and the type and scale of restoration alternatives.

DETERMINATIONS

Determination of Jurisdiction: The trustees have made the following findings pursuant to 15 C.F.R. §990.41.

1. The incident resulted in the discharge of oil into or upon navigable waters of the United States. Such occurrence constitutes an "incident" within the meaning of 15 C.F.R. §930.30.

2. The incident was not authorized under a permit issued pursuant to federal, state, or local law; was not from a public vessel; and was not from an onshore facility subject to the Trans-Alaska Pipeline Authority Act, 43 U.S.C. §1651 et seq.

3. Natural resources under the trusteeship of the trustees have been injured as a result of the incident.

As a result of the foregoing determinations, the trustees have jurisdiction to pursue restoration under OPA.

Determination to Conduct Restoration Planning: The trustees have determined, pursuant to 15 C.F.R. §990.42(a), that:

1. data collected pursuant to 15 C.F.R. §990.43 demonstrate that injuries to natural resources have resulted from the incident, including but not limited to, shorelines, aquatic organisms, birds, and recreation;

2. the response actions did not address the injuries resulting from the incident sufficiently to preclude restoration;

3. feasible primary and/or compensatory restoration actions exist to address injuries from the incident.

Based upon the foregoing determinations, the trustees have determined to proceed with restoration planning for this incident.

PUBLIC PARTICIPATION/SOLICITATION:

The trustees invite the public to participate in restoration planning for this incident. Public participation in decision-making is encouraged and is facilitated through a publically available AR (described above), a web portal for restoration project idea submissions, publication of public notices in the *Louisiana Register*, and other public avenues. The trustees are currently soliciting restoration project ideas that aim to

restore natural resources and/or services that have a nexus to the injured natural resources and/or lost services for this incident. The trustees will consider existing and new project proposals as part of the restoration planning process. The public can submit restoration project ideas electronically at <http://la-dwh.com/PublicSubmittal/ProjectFormHome.aspx> or by mailing to: Charles K. Armbruster, RRP Program Manager, Louisiana Oil Spill Coordinator's Office, P.O. Box 66614, Baton Rouge, LA 70896. Opportunities to participate in the process will continue to be provided by the trustees at important junctures throughout the planning process and will include the public's review of planning and settlement documents (e.g. the public will be invited to review the draft damage assessment and restoration plan (draft DARP) and draft settlement agreement documents). Public participation is consistent with all State and Federal laws and regulations that apply to the NRDA process, including section 1006 of the Oil Pollution Act (OPA), 33 U.S.C. §2706; the regulations for NRDA under OPA, 15 C.F.R. part 990; section 2480 of OSPRA, La. Rev. Stat. 30:2480; and the regulations for NRDA under OSPRA, Louisiana Administrative Code 43:XXIX.Chapter 1.

FOR FURTHER INFORMATION:

For more information or to view the AR please contact the Louisiana Oil Spill Coordinator's Office, P.O. Box 66614, Baton Rouge, LA 70896, (225) 925-6606 (Attn: Gina Saizan).

Marty J. Chabert
Coordinator

1609#080

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