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Executive Orders

EXECUTIVE ORDER JBE 19-02

Offender Labor

WHEREAS, Louisiana Revised Statute 15:832.1 was enacted by Act No. 933 of the 1988 Regular Session of the Louisiana Legislature relative to correctional facilities offender labor;

WHEREAS, as amended, La. R.S. 15:832.1 permits the governor to authorize the use of offender labor in certain projects or maintenance or repair work; and

WHEREAS, upon determining that it is appropriate and in furtherance of the rehabilitation and training of offenders, the governor may issue an executive order to authorize the use of offenders of a penal or correctional facility owned by the State of Louisiana for necessary labor in connections with a particular project.

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: In furtherance of the goals of the State of Louisiana of supporting positive offender welfare,

rehabilitating offenders, reducing recidivism, and reintegrating offenders into society, offender labor is hereby authorized for construction of a certain offender reception and diagnostic center at Raymond Laborde Correctional Center, Cottonport, Louisiana.

SECTION 2: This Order is effective upon signature and shall continue in effect until amended, modified, terminated, or rescinded by the governor, or terminated by operation of law.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 the State of Louisiana in the City of Baton Rouge, on this 14th day of March, 2019.

John Bel Edwards
Governor

ATTEST BY
THE GOVERNOR
R. Kyle Ardoin
Secretary of State
1904#074

Emergency Rules

DECLARATION OF EMERGENCY

Department of Agriculture and Forestry Office of Agricultural and Environmental Sciences

Boll Weevil Eradication Commission
(LAC 7:XV.301, 303 and 321)

In accordance with the emergency provisions of the Administrative Procedure Act, R.S. 49:953(B), and under the enabling authority of R.S. 3:1604.1, R.S. 3:1652, and R.S. 3:1655, notice is hereby given that the Department of Agriculture and Forestry is, by emergency rule, amending LAC 7:XV.301, 303 and 321. The amendments to these rules reduce the maintenance inspection fee paid by cotton producers from \$5 per acre to \$4 per acre.

The excessive rainfall during the fall harvest season of 2018 has caused a hardship on many cotton producers in the state of Louisiana. This hardship experienced by the cotton producers is supported by the USDA's designation of natural disaster in 35 parishes within the state of Louisiana. Due to the wet conditions, some producers were unable to harvest their cotton crop, while other producers were left with the inability to destroy standing cotton stalks. The producers that were able to prepare fields for this year's cotton crop did so at an increased expense, which significantly reduced farm income for cotton producers. This Declaration of Emergency is required in order to provide cotton producers in the state of Louisiana some relief regarding the input costs necessary to produce a cotton crop. This fee reduction must be adopted by emergency rule as cotton producers must pay the maintenance inspection fee by July 15 of each year, and there is not sufficient time to amend the rules by the permanent rulemaking process prior to July 15, 2019.

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

Title 7

AGRICULTURE AND ANIMALS

Part XV. Plant Protection and Quarantines

Chapter 3. Boll Weevil

§301. Maintenance Inspection Fee

A. In accordance with R.S. 3:1655(D), the state entomologist is authorized to assess fees to defray the costs of inspections or the issuance of certificates or permits for the shipment of agricultural products, commodities, packaging, or equipment. There is hereby established a fee for the inspection and certification of cotton for the presence of the boll weevil to ensure the marketability of cotton in commerce and maintain Louisiana's boll weevil-free status. The fee shall be \$4 per acre for each acre of cotton planted in the state.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1604.1, 1652, and 1655.

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

Sciences, Boll Weevil Eradication Commission, amended LR 40:1517 (August 2014); LR 42:1644 (October 2016), LR 45:

§303. Definitions Applicable to Boll Weevil

A. - B. ...

Maintenance Inspection Fee—the fee paid by cotton producers to finance, in whole or in part, a program to inspect cotton for the presence of the boll weevil in the state and to issue certificates or permits in accordance with R.S. 3:1655(D). The charge to the producer is calculated at the rate of \$4 per acre for each acre of cotton planted in the state.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1604.1, 1652, and 1655.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Boll Weevil Eradication Commission, LR 21:17 (January 1995), amended LR 23:195 (February 1997), LR 37:2583 (September 2011), LR 40:1517 (August 2014); LR 42:1644 (October 2016), LR 45:

§321. Maintenance Inspection Fees, Payment and Penalties

A. The annual maintenance inspection fee on cotton producers in the Louisiana eradication zone shall be \$4 per acre for each acre of cotton planted in the state. Each cotton producer shall pay his annual maintenance inspection fee directly to the department no later than July 15 or final certification with the FSA for that growing season, whichever is later. The signed and completed cotton acreage reporting and payment form with FSA Form 578 attached shall be submitted with the annual payment of the maintenance inspection fee.

B. - H. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1604.1, 1609, 1610, 1612, 1652, and 1655.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Boll Weevil Eradication Commission, LR 21:20 (January 1995), amended LR 21:669 (July 1995), LR 23:195 (February 1997), LR 24:2231 (December 1998), LR 25:829 (May 1999), LR 29:859 (June 2003), LR 30:1142 (June 2004), LR 30:2443 (November 2004), LR 37:2583 (September 2011), LR 40:1519 (August 2014), LR 42:1644 (October 2016), LR 45:

Mike Strain DVM
Commissioner

1904#040

DECLARATION OF EMERGENCY

Department of Agriculture and Forestry Office of Agricultural and Environmental Sciences

Citrus Greening Quarantine (LAC 7:XV.127)

In accordance with the emergency provisions of the Administrative Procedure Act, La. R.S. 49:953(B), and pursuant to the authority of the state entomologist in R.S.

3:1652, notice is hereby given that Department of Agriculture and Forestry is adopting these emergency regulations establishing a quarantine for citrus greening disease (CG), also known as Huanglongbing disease of citrus, caused by the bacterial pathogen *Candidatus Liberibacter* spp. The state entomologist has determined that CG has been found in this state and may be prevented, controlled, or eradicated by quarantine.

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

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

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

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

Title 7

AGRICULTURE AND ANIMALS

Part XV. Plant Protection and Quarantine

Chapter 1. Crop Pests and Diseases

Subchapter B. Nursery Stock Quarantines

§127. Citrus Nursery Stock, Scions and Budwood

A. - D.1. ...

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

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

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

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Office of Agricultural and Environmental Sciences, LR 11:320 (April 1985), amended by the Department of

Agriculture and Forestry, Office of Agricultural and Environmental Sciences, LR 40:1308 (July 2014), LR 42:730 (May 2016), LR 44:439 (March 2018), LR 45:

Mike Strain DVM
Commissioner

1904#042

DECLARATION OF EMERGENCY

Department of Agriculture and Forestry Office of Agricultural and Environmental Sciences

Emerald Ash Borer Quarantine (LAC 7:XV.167)

In accordance with the emergency provisions of the Administrative Procedure Act, R.S. 49:953(B), and the authority of the state entomologist pursuant to R.S. 3:1652, and in order to avoid a lapse in coverage until a permanent rule is in effect, notice is hereby given that Department of Agriculture and Forestry is adopting these emergency regulations establishing a quarantine in Caddo Parish for the following pest: Emerald Ash Borer (EAB), *Agrilus planipennis* Fairmaire. The state entomologist has determined that EAB has been found in Caddo Parish and may be prevented, controlled, or eradicated by quarantine.

EAB poses an imminent peril to the health and welfare of Louisiana forests, commercial and private forestry/wood product industries, and nursery growers due to its ability to infest ash trees. In 2013, the wholesale value of woody ornamental sales for nursery growers in the state was \$62.6 million, a portion of which is comprised of sales of ash trees (Louisiana State University AgCenter 2013 Louisiana Summary, Agriculture and Natural Resources). Louisiana's forests and forestry/wood products industries generated an output industry production value of \$10.86 billion in 2012, a portion of which is comprised of ash trees and ash tree products (Louisiana State University AgCenter publication 3367-G, 2015). Sales of ash firewood by retail and wholesale suppliers to private individuals also are important to the state's economy.

Natural spread of EAB is limited to relatively short distances. However, without restriction, EAB can spread through human-assisted means over long distances via infested ash nursery stock, ash logs/timber and cut firewood. Once an ash tree is infested, it experiences twig dieback and tree decline. Tree death occurs within a few years. Failure to prevent, control, or eradicate this pest threatens to damage Louisiana's commercial ash tree nursery industry, and over time this pest poses a threat to destroy the majority of ash in our state, both commercial and residential. The loss of the state's commercial nursery-grown ash trees, forestry/wood ash products and even residential ash trees would be devastating to the state's economy and to its private citizens. The quarantine established by this emergency regulation is necessary to prevent the spread of EAB to all areas in Louisiana where ash may exist, outside of the current areas where this pest has been found.

For these reasons, the presence of EAB in Louisiana presents an imminent peril to the health, safety and welfare of Louisiana's citizens and forests, the state's commercial and private forestry/wood product industries, and nursery growers. As a result of this imminent peril, the Department

of Agriculture and Forestry, Office of Forestry and Office of Agricultural and Environmental Sciences, hereby exercises its full and plenary power pursuant to R.S. 3:1652 to deal with crop and fruit pests and contagious and infectious crop and fruit diseases by imposing the quarantines set out in these emergency regulations.

This Emergency Rule shall have the force and effect of law upon signature and will remain in effect 120 days, unless renewed by the commissioner of agriculture and forestry or until permanent rules are promulgated in accordance with law.

Title 7

AGRICULTURE AND ANIMALS

Part XV. Plant Protection and Quarantine

Chapter 1. Crop Pests and Diseases

Subchapter F. Emerald Ash Borer Quarantine

§167. Emerald Ash Borer Quarantine

A. - B. ...

1. The entire parishes of Bienville, Bossier, Caddo, Claiborne, Jackson, Morehouse, Lincoln, Ouachita, Union and Webster.

B.2. - G. ...

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

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, LR 41:2577 (December 2015), amended LR 43:245 (February 2017), amended LR 44:1589 (September 2018) LR 45:

Mike Strain DVM
Commissioner

1904#039

DECLARATION OF EMERGENCY

Department of Children and Family Services Division of Child Welfare

Adoption Subsidy Program and Adoption Petition Program
(LAC 67:V.4901, 4903, 5101, 5103 and 5105)

The Department of Children and Family Services (DCFS), Child Welfare, has exercised the emergency provision of the Administrative Procedure Act, R.S. 49:953(B) to amend LAC 67:V, Subpart 6 Adoptions, Chapter 49 Adoption Subsidy Program, Sections 4901 and 4903 and Chapter 51, Adoption Petition Program, Sections 5101, 5103, and 5105. This Emergency Rule shall be effective April 1, 2019, and shall remain in effect for a period of 120 days.

The department considers emergency action necessary to facilitate the expenditure of IV-E funds for extended foster care services to the estimated 20 children who are currently eligible for these adoption subsidy services initiated after their sixteenth birthday as specified in Act 649 of the Regular Session of the Louisiana Legislature.

Title 67

SOCIAL SERVICES

Part V. Child Welfare

Subpart 6. Adoptions

Chapter 49. Adoption Subsidy Program

§4901. Subsidizing the Adoption of Children with Special Needs

A. Overview of Program Purpose

1. The Subsidized Adoption Program enables the Department of Children and Family Services to make payments to adoptive parents on behalf of a child who otherwise might not be adopted because of special needs or circumstances. Subsidy payments shall be limited to a child(ren) for whom adoption is indicated but placement through existing resources is unavailable because of the child's physical or mental condition, race, age, membership in a sibling group which should not be separated, or other serious impediments or special needs. The adoption subsidy applies to a special needs child for whom the Department of Children and Family Services holds full and permanent custody prior to the adoptive placement or to a special needs child, SSI or AFDC eligible, for whom a private nonprofit agency holds custody and to nonrecurring adoption expenses only for special needs children who are adopted independently. The adoption subsidy may be extended for children who were adopted from foster care and initially began receiving the subsidy after age 16, but prior to age 18, if the adoptive parents remain financially responsible for the child, and the child meets the same eligibility criteria as children eligible for the department's Extended Foster Care program. No child may have an adoption subsidy initiated for the first time after age 18. The adoption laws of the state of Louisiana shall be adhered to, and the granting of a subsidy shall not affect the legal status of the child nor the rights and responsibilities of the adoptive parents.

2. The prospective adoptive family must meet basic adoption eligibility requirements in all respects except for the ability to assume complete financial responsibility for the child's care.

B. Types of Subsidy. The child may be subsidized for the following services up to age 18, or up to age 21 if eligible for an extension of the adoption subsidy.

1. Maintenance. The maintenance subsidy includes basic living expenses such as board, room, clothing, spending money, and ordinary medical and dental costs. The maintenance supplement may be ongoing, but must be renewed on a yearly basis. An extension of an adoption subsidy for youth who have turned 18 must be reviewed quarterly to ensure ongoing eligibility, but only needs to be renewed annually as long as eligibility criteria continue to be met. The amount of payment shall not exceed 80 percent of the state's regular foster care board rate based on the monthly flat rate payments for the corresponding age group. Changes in the maintenance subsidy rate care may occur once a year and the adjustment is made at the time of a change in the child's age group. The monthly maintenance shall not be based on specialized foster care arrangements such as subsidized foster care, alternate family care, or therapeutic foster care.

2. Special Board Rate.

a. Foster parents adopting a foster child for whom a special board rate was received may request up to a maximum of 80 percent of the special board rate amount of \$300. This includes adoptive parents who were not previously certified as the child's foster parent(s), if the care and needs of the child in the adoptive home warrant this same special board rate. Therefore, under the Adoption Subsidy Program, the special board component for these type homes shall not exceed \$240. The continued need for

the special board rate shall be reviewed at the time of the annual review for children under age 18. At age 18, the extension of an adoption subsidy shall be reviewed a minimum of quarterly.

b. For the child placed in a Subsidized Foster Home, Alternate Family Care facility, or a Therapeutic Family Care facility, the maximum amount of the special board component of the adoption subsidy shall not exceed \$258. This amount equals the Flexible Family Fund (monitored by the Office for Citizens with Developmental Disabilities and the Office of Behavioral Health and administered by the 10 human service districts/authorities) authorized for the care of children with severe emotional disturbance or severe intellectual/developmental disabilities who are in their own homes.

3. - 3.a.i. ...

ii. psychiatric, or psychological expenses, special equipment, prosthetic devices, or speech therapy;

B.3.a.iii. - C. ...

C.1. Before a child is certified by the Division of Child Welfare as eligible for a subsidy, resources for adoptive placement without such benefits must be explored by the adoption worker. This will include recruitment of adoptive parents, registrations for a reasonable period on state, regional, and/or national adoption resources exchanges, and referral to appropriate specialized adoption agencies.

C.2. - D.1. ...

a. The income scale determining eligibility for the non IV-E maintenance subsidy shall be utilized by the Department of Children and Family Services, Division of Child Welfare to determine eligibility for non IV-E benefits. The scale is based on 60 percent of Louisiana's median income for a family of four, adjusted for family size as published by the U.S. Department of Health and Human Services. Figures in the column on the left refer to the number of family members, including the adoptive child(ren). Figures in the column on the right refer to family gross income. Persons living in the household who are not dependent on the adoptive family's income even though related, are not counted. Families whose income falls below the figures in the right column may apply for subsidy.

b. The Division of Child Welfare, Adoption Subsidy Program, will determine the appropriateness of subsidy benefits, the type of subsidy, and the level of the subsidy. An agreement form between the Division of Child Welfare and the prospective adoptive parents with clearly delineated terms must be signed prior to the granting of the final decree.

c. Income Chart

Family Size	Gross Annual Income
1 person	\$23,371
2 persons	\$30,562
3 persons	\$37,753
4 persons	\$44,944
5 persons	\$52,135
6 persons	\$59,326
7 persons	\$60,674
8 persons	\$62,022

Family Size	Gross Annual Income
9 persons	\$63,371
10 persons	\$64,719
11 persons	\$66,067
12 persons	\$67,416
13 persons	\$68,764
14 persons	\$70,112

d. For each additional family member six persons, add three percentage points to the percentage for a six-person household (132 percent), and multiply the new percentage by 60 percent of the state's estimated median income for a four-person household.

2. IV-E Placements. Federal regulations prohibit the use of an income eligibility requirement (means test) for prospective adoptive parents in determining the availability of payments or other types of adoption assistance. The eligible child who has met the "special needs" requirements in Section 473(c) of the Social Security Act will be eligible for payments and other types of services and assistance under the Title IV-E Adoption Assistance Program. Parents with whom such a child is placed for adoption are eligible to receive Title IV-E payments and other assistance on behalf of that child, under an agreement with the state agency.

3. A child adopted from foster care after age 16 but prior to age 18 and receiving an adoption subsidy already may be allowed an extension of the adoption subsidy if requested by the family for the adoptive family to continue receiving the adoption subsidy payments on behalf of the child after the child turns 18 and up to age 21 as long as the family retains financial responsibility for the child, the child meets the same eligibility criteria as children eligible for the department's Extended Foster Care program and all other eligibility criteria for the original subsidy remain in effect. Ongoing eligibility must be reassessed by DCFS/CW quarterly, but renewal of the subsidy only completed annually. If notified by the family the child and family are no longer eligible or interested in receiving the extended subsidy; or, if at reassessment it is determined the child and family are no longer eligible for the extended subsidy, the subsidy shall be ended immediately.

E. - E.2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1790-1792 and P.L. 96-272 (Title IV-E).

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Human Development, LR 4:388 (October 1978), repealed by the Department of Social Services, Office of Community Services, LR 18:79 (January 1992), promulgated and amended LR 18:966 (September 1992), amended by the Department of Children and Family Services, Child Welfare, LR 45:

§4903. Nonrecurring Expenses in Adoptions

A. The Division of Child Welfare sets forth criteria for reimbursement of nonrecurring expenses associated with the adoption of children with special needs.

1. The amount of the payment made for nonrecurring expenses of adoption shall be determined through agreement between the adopting parent(s) and the Division of Child Welfare. The agreement must indicate the nature and amount of the nonrecurring expenses to be paid.

2. - 3. ...

4. To be eligible, the child must meet the criteria previously established by the Division of Child Welfare to be designated as a "child with special needs". Furthermore, the child must have been placed for adoption in accordance with applicable state laws.

5. - 6. ...

7. Reimbursement is limited to costs incurred by or on behalf of adoptive parents that are not otherwise reimbursed from other sources. Payments for nonrecurring expenses shall be made directly by the Division of Child Welfare.

8. - 9. ...

AUTHORITY NOTE: Promulgated in accordance with 45 CFR Part 1356, as published in the Federal Register on December 14, 1988, Section 1711 of the Tax Reform Act of 1986 as it relates to the Adoption Assistance Program under Title IV-E, and Act 345 of the 1990 Legislative Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Community Services, LR 17:386 (April 1991), amended by the Department of Children and Family Services, Child Welfare, LR 45:

Chapter 51. Adoption Petition Program

§5101. Certificate of Adoption in Private Adoptions

A. - C.2.b. ...

c. Attorneys representing prospective adoptive couples living in Louisiana for private adoptions must request the court having jurisdiction to order a Louisiana child abuse/neglect records check from the Division of Child Welfare's Regional Office for the parish of residence of the prospective adoptive couple with the results of said check to be submitted in writing to the court. The court order shall be sent to the attention of the Adoption Petition Unit.

d. The mailing addresses of the regional offices of the Division of Child Welfare where this form may be obtained are as follows:

i. Greater New Orleans;

(a). Jefferson District, Box 10009, Jefferson, LA, 70181;

(b). Orleans District, Regional Office, 1450 Poydras Street, Suite 1600, New Orleans, LA, 70112;

ii. Baton Rouge Regional Office, Box 3318, Baton Rouge, LA 70821;

iii. Lafayette Regional Office, 825 Kaliste Saloom Rd, Lafayette, LA 70508;

iv. Lake Charles Regional Office, Box 1486, Lake Charles, LA 70602;

v. Alexandria Regional Office, Box 8557, Alexandria, LA 71306;

vi. Shreveport Regional Office, 1525 Fairfield Avenue, Shreveport, LA 71101-4388;

vii. Monroe Regional Office, Box 3047, Monroe, LA 71210;

viii. Thibodaux Regional Office, 1416 Tiger Drive, Thibodaux, LA 70301;

ix. Covington Regional Office, 351 Holiday Blvd., Covington, LA 70433.

e. - f. ...

D. The Department of Children and Family Services, Division of Child Welfare in carrying out the duties as detailed in the Children's Code, Title XII, Chapter 10, Article 1229 (A) shall include in the report to the court a copy of the Certificate of Adoption for the prospective adoptive couple or report to the court in writing that no Certificate of

Adoption has been obtained in accordance with the Louisiana Children's Code.

AUTHORITY NOTE: Promulgated in accordance with the Children's Code, Title XII, Chapter 2.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Community Services, LR 18:747 (July 1992), amended by the Department of Children and Family Services, Child Welfare, LR 45:

§5103. When the Petitioner Is the Stepparent of the Adoptee

A. DCFS/CW shall no longer provide a full investigation and court report in stepparent adoptions unless so ordered by the court. Henceforth, adoption petition workers shall investigate stepparent adoptions only to the extent necessary. The investigation shall:

A.1. - B.2.b.vi. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 9:427.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Human Development, Division of Evaluation and Services, LR 10:342 (April 1984), amended by the Department of Children and Family Services, Child Welfare, LR 45:

§5105. Intercountry Adoptions

A. The Department of Children and Family Services, Division of Child Welfare, hereby adopts Intercountry Adoptions Policy. This policy authorizes certain consenting licensed private child placing agencies to conduct and certify the validity of home studies; to contract with qualified professionals to complete home studies; and to certify the validity of home studies completed by professionals under contract with them to complete home studies; certifying to the U.S. Immigration and Naturalization Service that the Louisiana prerequisite of a valid home study has been completed as required before an intercountry adoption can be consummated.

AUTHORITY NOTE: Promulgated in accordance with the United States Immigration and Nationality Act of 1952, as amended (Title 8, U.S.C. aliens and nationality).

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Human Development, LR 7:408 (August 1981), amended by the Department of Children and Family Services, Child Welfare, LR 45:

Marketa Garner-Walters
Secretary

1904#027

DECLARATION OF EMERGENCY

Department of Children and Family Services Division of Child Welfare

Foster Care (LAC 67:V.4101)

The Department of Children and Family Services (DCFS), Child Welfare, has exercised the emergency provision of the Administrative Procedure Act, R.S. 49:953(B) to amend LAC 67:V, Subpart 5 Foster Care, Chapter 41 Guardianship Subsidy Program, Section 4101 Subsidizing Guardianship Arrangements for Children in Foster Care. This declaration is necessary to extend the original Emergency Rule since it is effective for a maximum of 120 days and will expire before the Final Rule takes effect. This Emergency Rule

extension is effective on April 30, 2019 and shall remain in effect for a period of 120 days.

Pursuant to Section 473. [42 U.S.C. 673], amendment of section 4101 of this code is necessary to ensure children in foster care in Louisiana are afforded the full benefits possible in achieving permanency through guardianship. Additionally, with regard to federal Public Law 115-123 enacted February 9, 2018, the benefits available through the guardianship subsidy are being expanded.

The department considers emergency action necessary to implement this opportunity for establishing more stable, permanent care options for children in foster care, and stabilizing situations where guardians of children who have exited foster care and achieved the legal age of majority can continue to receive support as long as the guardian continues to provide care for the child and the guardian remains responsible for financial support of the child, if the child meets the same eligibility criteria as children eligible for the department's Extended Foster Care program.

Title 67

SOCIAL SERVICES

Part V. Child Welfare

Subpart 5. Foster Care

Chapter 41. Guardianship Subsidy Program

§4101. Subsidizing Guardianship Arrangements for Children in Foster Care

A. Overview of Program Purpose

1. The Subsidized Guardianship Program enables the Department of Children and Family Services (DCFS) to make payments to certified relative and fictive kin caregivers as well as certified caregivers with a significant familial bond with the child on behalf of a child who otherwise might not be able to achieve permanency outside of department custody because of special needs or other circumstances. Subsidy payments shall be limited to child(ren) for whom guardianship is indicated due to other more permanent options such as reunification with the parents, immediate unsubsidized custody to a relative or other caregiver, or adoption being determined unfeasible for the child. The guardianship subsidy applies only to a child(ren) for whom the DCFS holds legal custody, only to potential caregivers with whom the child has a significant familial bond; with whom it would be in the child's best interest to remain until the age of majority, and when the kinship placement provider or other caregiver with a significant familial bond becomes a certified foster caregiver according to the certification standards of the state, and, the child(ren) remains in the certified kinship placement or placement with the other caregiver with a significant familial bond for at least six consecutive months during the current foster care episode prior to entering the guardianship subsidy arrangement. The guardianship subsidy also applies to successor guardian(s) who meet the following criteria:

- a. the successor guardian is named in the guardianship subsidy agreement with DCFS;
- b. the successor guardian and all adult household members have satisfactorily completed national fingerprint based criminal and child abuse/neglect background clearances; and
- c. guardianship is transferred by a court to the successor guardian in accordance with *Louisiana Children's Code* articles 718 through 724.1.

2. The prospective guardianship family must meet basic foster care certification eligibility requirements or the successor guardianship criteria in all respects except for the ability to assume complete financial responsibility for the child's care.

3. An extended guardianship subsidy may be provided to the guardians or successor guardians of a child who initially received a guardianship subsidy from DCFS after achieving the age of 16, but prior to achieving the age of 18, when the guardian continues to provide care for the child and the guardian remains responsible for financial support of the child, if the child meets the same eligibility criteria as children eligible for the department's extended foster care program.

B. Types of Subsidy Payments. The child may be subsidized for the following services up to age 18.

1. Maintenance. The maintenance subsidy includes basic living expenses such as board, room, clothing, spending money, and ordinary medical costs. The maintenance subsidy may be ongoing until the child reaches age 18, but must be renewed on a yearly basis. The maintenance subsidy may be renewed on the child's eighteenth birthday and extended up to age 21 if the guardian continues to provide care for the child and the guardian remains responsible for financial support of the child, if the child meets the same eligibility criteria as children eligible for the department's extended foster care program. This extended maintenance subsidy must be reviewed quarterly and may be renewed annually as long as the child continues to meet the same eligibility criteria as children eligible for the department's extended foster care program. This renewal will be dependent upon the child remaining in the care of the guardian or successor guardian with whom the subsidy agreement was established. The amount of payment shall not exceed 80 percent of the state's regular foster care board rate based on the monthly flat rate payments of the regular foster care board rate for the corresponding age group. Monthly maintenance payments shall not be based on subsidized foster care arrangements such as specialized foster care, alternate family care, or therapeutic foster care. Changes in the maintenance subsidy rate routinely only occur once a year and the adjustment is typically made at the time of the subsidy renewal, or due to a change in the child's age. Adjustments to the maintenance subsidy rate may also occur due to availability of funds, legislative changes or adjustments to the regular foster care board rate.

2. Special Board Rate. Foster parents entering into a guardianship agreement for a foster child for whom a special board rate was received during the foster care episode may request up to a maximum of \$240 which is 80 percent of the special board rate amount of \$300. This is only provided if the care and needs of the child in the guardianship arrangement warrant this same special board rate. The special board rate subsidy may be renewed on the child's eighteenth birthday and extended up to age 21 if the guardian continues to provide care for the child and the guardian remains responsible for financial support of the child, if the child meets the same eligibility criteria as children eligible for the department's extended foster care program. An extended special board subsidy for a child ages

18 to 21 must be reviewed quarterly and may be renewed annually as long as the child continues to meet the same eligibility criteria as children eligible for the department's extended foster care program. The continued need for the special board rate shall be reviewed at the time of the quarterly reviews. The review shall consist of a determination of whether the same level of specialized care by the guardian, for which the special board rate was being provided at the time of the initial subsidy agreement, continues to be necessary to meet the child's needs. Any reduction in the level of care required by the guardian or successor guardian should result in a decrease in the amount of special board rate compensation to the guardian.

3. Special Services

a. The special services subsidy is time limited and in some cases may be a one-time payment. It is the special assistance given to handle an anticipated expense when no other family or community resource is available. If needed, it can be offered in addition to the maintenance and special board rate subsidy. The special services subsidy must be established as a part of the initial guardianship subsidy agreement, and may not be provided or renegotiated based on any circumstances which develop or issues identified after that point. Special services subsidies include the following types of needs:

i. special medical costs deemed medically necessary for the daily functioning of the child for any condition existing prior to the date of the initial judgment establishing guardianship with the kinship caregiver or other caregiver with a significant familial bond and not covered by Medicaid or other insurance;

ii. ongoing therapeutic treatment costs to complete current therapy and future treatment costs on a time limited basis up to 18 years of age or for the duration of an extended subsidy for any eligible child, as department resources allow, related to the abuse/neglect received by the child and impacting the child's capacity to function effectively as part of the child's educational, family or social environment. This does not include the cost of residential care or psychiatric hospitalization, nor does it include therapeutic intervention for the sole purpose of providing behavior management assistance to the guardian;

iii. legal and court costs to the potential guardian family up to \$1000 for children who are not title IV-E eligible and up to \$2000 for children who are title IV-E eligible for establishing the guardianship arrangement. This service is only available for costs distinct and separate from the routine costs of the child in need of care proceedings to provide for costs to the potential guardian in establishing the guardianship arrangement. This legal and/or court fee will be provided as a non-reoccurring, one-time payment for each guardianship episode.

b. Medicaid Eligibility. The child remains eligible for Medicaid coverage up to 18 years of age when entering a guardianship subsidy arrangement from foster care. This coverage will be eligible utilizing title IV-E federal benefits if the child was title IV-E eligible at the time of the subsidy arrangement. For children not eligible for title IV-E, this coverage will be provided through title XIX federal benefits or state general funds. For a Louisiana child who is placed out of state in a potential guardianship placement or who moves to another state after the establishment of a

guardianship subsidy, if the child is eligible for title IV-E guardianship subsidy payments, the child is also categorically eligible for Medicaid in the state in which the child resides whether that state participates in the title IV-E Guardianship Subsidy Assistance Program or not.

c. Chaffee Foster Care Independent Living Skills Training and Education Training Voucher Eligibility. The child is eligible for consideration for participation in the Chaffee Foster Care Independent Living Skills Training and for Education Training Vouchers if the child initially enters a guardianship arrangement from foster care (not a successor guardianship) after reaching 16 years of age, as long as the child meets any other program eligibility requirements.

C. Exploration of Guardianship Resources

1. Before a child is determined by the Department of Children and Family Services (DCFS) as eligible for a guardianship subsidy, it must be determined the child cannot be reunited with the parents, and resources for adoptive placement must be explored by the child's worker. If the kinship family or other caretakers with a significant familial bond with the child and with whom the child is placed refuses to adopt the child or is unable to be certified as an adoptive family, the department has to show efforts to achieve the more permanent case goal of adoption for the child and demonstrate the benefits of maintaining the child in the placement in a guardianship arrangement as opposed to ongoing efforts in pursuing adoption or any other long term permanency arrangement. It is also necessary for the child's worker to discuss plans for a guardianship arrangement with the child and document the outcome of that discussion with the child, including agreement with that plan by any child 14 years of age up to 18 years of age. Lack of agreement by any child 14 years of age up to 18 years of age should be an ongoing topic of counseling regarding the benefits of the arrangement between the worker and the child, until a permanency option is achieved for the child or until the child attains 18 years of age.

2. Whenever an eligible child in the custody of DCFS is legally placed based on the interstate compact on the placement of children guidelines with a certified kinship caregiver or other certified caretaker with a significant familial bond with the child in another state, the family shall be eligible for a guardianship subsidy under the same conditions as Louisiana residents.

D. Eligibility Criteria

1. The DCFS, Guardianship Subsidy Program, will determine the appropriateness of subsidy benefits, the type of subsidy, and, the level of the subsidy. An agreement form between the DCFS and the prospective guardianship parent(s), with clearly delineated terms, including designation of a successor guardian, if desired, must be signed prior to the granting of the final decree for guardianship. This agreement will be reviewed on an annual basis thereafter by the DCFS to insure ongoing eligibility. Any extended guardianship subsidy for a child who has attained 18 years of age must be reviewed quarterly to ascertain ongoing eligibility.

2. Subsidy payments shall be limited to a child(ren) for whom guardianship is indicated due to other more permanent options such as reunification with the parents, or adoption being determined unfeasible for or not in the best interests of the child. The exception would be any child who

has been receiving a subsidy payment and enters a successor guardianship. A more permanent option for placement is not required as these children do not re-enter state custody.

3. The guardianship subsidy applies only to a child(ren) for whom the DCFS holds legal custody, only to potential caregivers with whom the child has an established familial or emotional relationship which it is deemed to be in the child's best interest to continue, and when the kinship placement provider or other caregiver with a significant familial bond with the child becomes a certified foster caregiver according to the certification standards of the State, and, the child(ren) remains in the certified kinship/caregiver placement for at least six consecutive months during the current foster care episode prior to entering the guardianship subsidy arrangement. The exception would be children entering a successor guardianship. There is no requirement for the child to be in DCFS custody, to be with a caregiver with an established relationship, for certification of the caregiver, nor for a child to be placed with the successor guardian for any length of time prior to entering the guardianship subsidy arrangement.

4. A family is considered eligible for participation in the Guardianship Subsidy Program if they are related to the child or family of the child through blood or marriage or if there exists a fictive kin relationship, which is defined as a relationship with those individuals connected to an individual child or the family of that child through bonds of affection, concern, obligation, and/or responsibility prior to the child's original entry into the custody of the state, and the individual(s) are considered by the child or family to hold the same level of relationship with the child or family as those individuals related by blood or marriage. The exception would be an individual considered for the successor guardianship named by the guardian in the guardianship subsidy agreement with DCFS. Additionally, a family is eligible for participation in the Guardianship Subsidy Program if they have a "significant familial bond" with the child. This term is used to describe individuals with whom the child has a very close affinity who may or may not have been known to the child or his/her family prior to foster care entry. It is also intended to convey the importance of the relationship to the well-being of the child in maintaining a connection into the future. The child demonstrates this bond through a strong attachment to the caregiver. A family with whom the child shares a significant familial bond could potentially include foster parents who are unable or unwilling to establish an adoptive relationship with the child in spite of DCFS efforts to overcome barriers to adoption, yet who are willing to commit to long term permanency through guardianship for the child. This is demonstrated by non-related family who have a significant and positive relationship with the child and who have a strong commitment to caring permanently for the child.

E. Effects of Deaths of Guardians on Guardianship Subsidy

1. When a child has been placed in an approved guardianship placement with a guardianship subsidy agreement in effect and the guardian dies prior to the child reaching the age of majority, the child's eligibility for a guardianship subsidy shall not be affected if a successor guardian was named in the original guardianship subsidy agreement. The child may remain in the care of a duly designated tutor/guardian as established by the guardian family prior to their death, without further involvement of the department. If the "duly designated" tutor/guardian requires financial assistance to maintain the care of the child and the individual was named in the guardianship subsidy agreement as a successor guardian, it is not necessary for the child to return to state custody and those individuals to become certified foster parents. Successor guardians named in the original guardianship subsidy agreement who take over financial responsibility for a child for whom the original guardians have been receiving an extended guardianship subsidy and the original guardians have died may receive the extended guardianship subsidy as well as long as the child continues to meet eligibility requirements up to the child achieving age 21.

2. If no successor guardian was named in the guardianship subsidy agreement, any individual otherwise legally designated as a tutor/guardian for the child and requiring financial assistance to sustain the care of the child would have to return the child to state custody and those individuals would have to become certified foster parents. Adoption of the child by the family should be explored as well, since adoption is a more permanent relationship for the child and family. If the family and home are determined to be safe for the care of the child through assessment of the home environment, fingerprint based criminal records clearance, and child abuse/neglect clearances, the child may remain in the care of the family while they are certified.

3. Where a guardianship subsidy agreement is in effect and the guardians both die prior to the child reaching the age of majority, the subsidy agreement will end. The child may remain in the care of a duly designated tutor/guardian as established by the family prior to their death, without further involvement of the department.

4.a. If the designated tutor/guardian requires financial assistance to maintain the care of the child, it will be necessary for the child to return to state custody and those individuals to become certified as foster parents and provide care to the child six consecutive months after certification and prior to entering into a guardianship subsidy agreement with the department. During the process of becoming certified as foster parents the family may continue to provide care to the child, as long as they are determined to be safe caregivers through a minimum of:

- i. department assessment of the home environment;
- ii. national fingerprint based criminal records clearances on all adults in the home; and
- iii. child abuse/neglect clearances on all adults in the home.

b. Adoption of the child by the family will be explored by the department as well. There can be no financial support of the child by the child welfare agency while being cared for by the family until such family has

been certified, other than incidental expenditures routinely reimbursed to other non-certified caregivers of children in foster care. Each guardianship arrangement is considered a new episode. Therefore, the department may provide legal and court costs to support the establishment of this new legal guardianship arrangement between the potential guardian and the child up to \$1000 for children who are not title IV-E eligible and up to \$2000 for children who are title IV-E eligible. No legal or court costs are provided for any guardianship arrangement established on or after the child's eighteenth birthday.

AUTHORITY NOTE: Promulgated in accordance with SEC. 473. [42 U.S.C. 673], and P.L. 115-123.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Community Services, LR 36:552 (March 2010), amended by the Department of Children and Family Services, Division of Programs, Child Welfare Section, LR 41:2308 (November 2015), amended by the Department of Children and Family Services, Child Welfare, LR 45:

Marketa Garner Walters
Secretary

1904#026

DECLARATION OF EMERGENCY

Children and Family Services Division of Child Welfare

State Central Registry and Child Protective Services
Administrative Appeal
(LAC 67:V.1103 and 1111)

The Department of Children and Family Services (DCFS) has exercised the emergency provision of the Administrative Procedure Act, R.S. 49:953 (B) to amend LAC 67:V, Subpart 3, Child Protective Services, Chapter 11, Sections 1103 and 1111. This Emergency Rule shall be effective March 15, 2019, and shall remain in effect for a period of 120 days.

The Department considers emergency action necessary to assure compliance with 42 USC 9858f for child care background clearances to be completed within 45 days of submission; and to provide individuals opportunities for administrative appeals when DCFS intends to justify/validate them for their involvement as a perpetrator of child abuse and/or neglect in accordance Louisiana Children's Code, Article 616.1.1. A failure to comply with the time frame for the background clearance may result in the loss of federal funds to the state.

Title 67

SOCIAL SERVICES

Part V. Child Welfare

Subpart 3. Child Protective Services

Chapter 11. Administration and Authority

§1103. State Central Registry

A. – C.1. ...

2. Individuals in investigations in families who have been determined to be justified/valid as a perpetrator of child abuse and/or neglect for a tier 1, 2, or 3 finding, as defined in LAC 67:V.1103.A, subsequent to July 1, 2018, shall be provided written notice of the SCR and the rules governing maintenance and release of SCR records. As of August 1, 2018, the written notice shall also inform the individual of their right to an administrative appeal pursuant to LAC

67:V.1111. The individual's name will not be placed on the SCR until the individual has exhausted his right to an administrative appeal. If the individual fails to request an administrative appeal within 20 days of the written notification of the justified/valid finding, withdraws their request for an administrative appeal, or the justified/valid finding is upheld by an administrative law judge, the individual's name will be immediately placed on the SCR.

D. - G.11. ...

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

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Community Services, LR 18:79 (January 1992), amended LR 20:198 (February 1994), LR 21:583 (June 1995), LR 23:590 (May 1997), LR 26:790 (April 2000), LR 31:1609 (July 2005), LR 36:838 (April 2010), amended by the Department of Children and Family Services, Division of Programs, Child Welfare Section, LR 42:862 (June 2016), amended by the Department of Children and Family Services, Division of Child Welfare, LR 44:998 (June 2018), effective July 1, 2018, amended LR 45:217 (February 2019), amended LR 45:

§1111. Child Protective Services Administrative Appeal

A. The Department of Children and Family Services (DCFS) establishes an administrative appeal process with the Division of Administrative Law (DAL). The purpose is to provide individuals the right to appeal DCFS Child Protective Services investigation findings of justified/valid. Any individual with a justified/valid finding of child abuse or neglect may request an appeal of their justified/valid finding directly with DAL.

B. Individuals with justified/valid findings in an investigation prior to August 1, 2018, will have the right to an administrative appeal of any/all of their DCFS findings of justified/valid. When a request for an SCR clearance is received by DCFS, or DCFS verifies that an individual has a justified/valid finding, and the individual is listed as a perpetrator with a justified/valid finding of abuse or neglect in an investigation prior to August 1, 2018; the individual will be notified in writing of their right to an administrative appeal. The individual will have 20 days from the date of the written notification to request an appeal through DAL.

C. Any individual notified of a DCFS justified/valid finding in an investigation subsequent to August 1, 2018, will have the right to an administrative appeal of any/all of their DCFS findings of justified/valid. The individual will have 20 days from the date of the written notification to request an appeal through the DAL.

D. When DCFS receives a request for an SCR clearance on an individual who is a prospective or current employee in a licensed/registered child care setting by the Louisiana Department of Education, a current or prospective employee of an Office of Juvenile Justice juvenile facility, a current or prospective employee in a specialized provider, juvenile detention facility provider licensed by DCFS; or, a current or prospective employee of DCFS in a position whose duties include the investigation of child abuse or neglect, supervisory or disciplinary authority over children, direct care of a child, or performance of licensing surveys, they may request an expedited appeal. A request for an expedited appeal shall be submitted to DAL within 10 days of the date of the written notification. If the appeal is not submitted

within the 10 days, the individual has 20 days from the date of the written notification to request a non-expedited appeal through DAL.

E. - I. ...

I.1. the individual does not request an administrative appeal with DAL within 20 days of the date of the written notification of their right to appeal the DCFS determination;

I.2. - K. ...

AUTHORITY NOTE: Promulgated in accordance with Act 348 of 2017 and Children’s Code Article 616.1.1., and 42 USC 9858f.

HISTORICAL NOTE: Promulgated by the Department of Children and Family Services, Division of Child Welfare, LR 44:1002 (June 2018), effective July 1, 2018, amended LR 45:218 (February 2019), amended LR 45:

Marketa Garner Walters
Secretary

1904#004

DECLARATION OF EMERGENCY

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

Pharmacy Benefits Management Program
Pharmacy Copayment (LAC 50:XXIX.111)

The Department of Health, Bureau of Health Services Financing amends LAC 50:XXIX.111 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 received approval from the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS) of a State Plan Amendment (SPA) relative to assessing drug copays to managed care enrollees and compliance with federal cost sharing rules. The department hereby amends the provisions governing copayment in the Pharmacy Benefits Management Program in order to add a copay tier to allow individuals with a household income of less than or equal to \$800 per month to be charged \$0 drug copays from April 1, 2019-December 31, 2019 to align with the corresponding CMS-approved SPA in compliance with federal regulations and CMS requirements.

It is anticipated that this Emergency Rule will result in programmatic costs in the Medicaid Program of approximately \$1,228,939 for State Fiscal Year 2018-2019. This action is being taken in order to avoid federal sanctions.

Effective April 1, 2019, the Department of Health, Bureau of Health Services Financing amends the provisions governing copayment in the Pharmacy Benefits Management Program.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part XXIX. Pharmacy

Chapter 1. General Provisions

§111. Copayment

A. - A.1. ...

* * *

a. For dates of service April 1, 2019 through December 31, 2019, recipients with a household income of less than or equal to \$800 per month will not be subject to copay.

A.2. - C.4. ...

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, LR 32:1055 (June 2006), amended by the Department of Health, Bureau of Health Services Financing, LR 43:1181 (June 2017), LR 43:1553 (August 2017), LR 45:

Interested persons may submit written comments to Jen Steele, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. 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

1904#012

DECLARATION OF EMERGENCY

**Department of Public Safety and Corrections
Manufactured Housing Commission**

Manufactured Housing Repairs (LAC 55:V.Chapter 5)

The Department of Public Safety and Corrections, Office of State Fire Marshal, Manufactured Housing Commission, hereafter referred to as the “Commission”, has exercised the emergency provision, in accordance with R.S. 49:953(B) of the Administrative Procedure Act, to amend, supplement and expand portions of and readopt LAC 55:V.Chapter 5 as authorized by R.S. 51:911.26(E). Furthermore, the Commission has found an immediate need to adopt amendments to create standards applicable to repairs made to used manufactured homes constructed during and after January 2006, which are located within the State of Louisiana. In particular, this emergency rule is applicable to manufactured homes built to standards and codes promulgated by the United States Department of Housing and Urban Development (HUD), under the National Manufactured Home Construction and Safety Standards Act of 1974, 42 U.S.C. 5401 et seq., as amended. The Emergency Rule adopts LAC 55:V.Chapter 5, Subchapter C., Manufactured Housing (Repairs) to require that the repairs made to these used manufactured homes restore the damaged portion of the structure to the same or similar condition as existed prior to the damage, as determined by the Office of State Fire Marshal.

The adoption of this Rule on an emergency basis is necessary due to the fact that many home owners lack the resources available to hire individuals such as architects and engineers to advise the homeowner on to how to restore and repair the damaged manufactured homes. As a result, as seen in the flood of August 2016, many homes are abandoned and become an imminent peril to the public health, safety and welfare of society. In addition, these abandoned homes become a blight to surrounding property values. Therefore,

this becomes a problem for local and parish jurisdictions to address, with many of these jurisdictions not having the financial resources to remove the abandoned homes. The adoption of this Rule is necessary so that owners of manufactured homes have the knowledge needed to restore and repair their homes. This Emergency Rule was adopted and became effective March 25, 2019. It shall be in effect for the maximum period allowed under the Administrative Procedure Act or until adoption of the final Rule, whichever occurs first.

**Title 55
PUBLIC SAFETY**

Part V. Fire Protection

Chapter 5. Manufacture Housing (Installation)

Subchapter C. Repairs

§553. Definitions

A. When used in these regulations, these terms shall have the following meanings:

Act—the National Manufactured Home Construction and Safety Standards Act of 1974, as amended, the Housing and Community Development Act of 1974 (42 U.S.C. 5401 et seq.).

HUD—the United States Department of Housing and Urban Development.

Inspect—a visual examination of manufactured homes to verify that it appears to be in operating condition and is free of physical damage.

Local Jurisdiction—city, town, township, parish, village, or other general purpose political subdivision of the State of Louisiana that has the authority to make legal pronouncements and administer judicial and regulatory enforcement to individuals and companies who are conducting transactions within the given geographical location.

LSUCCC—the Louisiana State Uniform Construction Code Council.

Manufactured Home and Manufactured Housing—a prefabricated, factory built home built on a permanent chassis which can be transported in one or more sections and is typically used as a permanent residential dwelling unit. Homes built since 1976 are constructed to standards and codes, as promulgated by the United States Department of Housing and Urban Development (HUD), under the National Manufactured Home Construction and Safety Standards Act of 1974, as amended, the Housing and Community Development Act of 1974, 42 U.S.C. 5401 et seq., as amended. Further, the terms “manufactured home” and “manufactured housing” may be used interchangeably and apply to structures bearing the permanently affixed seal of the United States Department of Housing and Urban Development.

Public Entity—the state and any of its branches, departments, offices, agencies, boards, commissions, instrumentalities, officers, officials, employees, and political subdivisions and the departments, offices, agencies, boards, commissions, instrumentalities, officers, officials and employees of such political subdivision.

Standards—the federal manufactured housing construction and safety Standards promulgated under Section 604 of the Act, 42 U.S.C. 5403, Part 3280.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:911.26(E).

HISTORICAL NOTE: Promulgated by the Department of Public Safety, Office of State Fire Marshal, LR 45:

§555. Repair Requirements

A. All repairs made to used manufactured homes constructed during and after January 2006 that are no longer in compliance with the standards to which they were built, or standards and codes, as promulgated by the United States Department of Housing and Urban Development (HUD),), under the National Manufactured Home Construction and Safety Standards Act of 1974, 42 U.S.C. 5401 et seq., as amended, shall be made so that the repair restores the damaged portion of the structure, using like or similar materials, to the same or similar condition as existed prior to the damage, as determined by the Office of State Fire Marshal.

B. All repairs made to used manufactured homes constructed during and after January 2006 that are no longer in compliance with the standards to which they were built or standards and codes, as promulgated by the United States Department of Housing and Urban Development (HUD), under the National Manufactured Home Construction and Safety Standards Act of 1974, 42 U.S.C. 5401 et seq., as amended shall be in accordance with the 2015 Wood Frame Construction Manual, the plumbing and mechanical portions of the 2015 International Residential Code (IRC) and the 2014 National Electrical Code, as applicable.

C. The Office of State Fire Marshal, as the authority having jurisdiction pursuant to R.S. 51:911.26(F)(11), is hereby authorized to adopt administrative, permitting, and inspection policies to assure that the repairs have been done in accordance with the aforementioned codes, which shall adhere to and not usurp applicable state laws. This authorization shall include permitting or inspections of driveways, steps, decks, or other similar accessory structures as provided in R.S. 40: 1730.23(B). The Office of State Fire Marshal shall use employee inspectors that are registered LSUCCC certified building officials for inspection of all repairs, not to include repairs which are performed under warranty and/or repairs pursuant to installations and set ups of manufactured homes. Upon completion of a final, approved inspection, as reported in an Office of State Fire Marshal inspection report, the Office of State Fire Marshal shall provide the inspection report to the local governing authority, which may utilize the report in determining the reinstatement and/or permitting of services, utilities, and, any and all other amenities that were discontinued due to the damage incurred to the manufactured home which prompted the repairs.

D. In the absence of the availability of the aforesaid Office of State Fire Marshal certified building officials, the Office of State Fire Marshal shall give written notification to the local jurisdictions to conduct said inspections.

E. Pursuant to R.S. 9:2798.1, liability shall not be imposed on public entities or their officers or employees based upon the exercise or performance or the failure to exercise or perform their policymaking or discretionary acts when such acts are within the course and scope of their lawful powers and duties. These provisions are not applicable:

1. to acts or omissions which are not reasonably related to the legitimate governmental objective for which the policymaking or discretionary power exists; or

2. to acts or omissions which constitute criminal, fraudulent, malicious, intentional, willful, outrageous, reckless, or flagrant misconducts.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:911.26(E), R.S. 51:911.26(F)(11) and R.S. 40:1730.23(B).

HISTORICAL NOTE: Promulgated by the Department of Public Safety, Office of State Fire Marshal, LR 45:

Chief H. "Butch" Browning
State Fire Marshal

1904#001

DECLARATION OF EMERGENCY

Department of Public Safety and Corrections Uniform Construction Code Council

Uniform Construction Code (LAC 17:I.Chapter 1)

The Department of Public Safety and Corrections, Office of State Fire Marshal, Louisiana State Uniform Construction Code Council (LSUCCC) has exercised the emergency provision in accordance with R.S. 49:953(B) of the Administrative Procedure Act, to amend, supplement and expand portions of and readopt LAC 17:I.Chapter 1 in the state Uniform Construction Code as authorized by R.S. 40:1730.26 and R.S. 40:1730.28. Furthermore, the LSUCCC has found an immediate need to adopt amendments of the current building provisions in the *International Building Code* regarding health and safety for the public.

The LSUCCC is promulgating this Rule adoption and amendments to provide greater health and safety for the public and those providing installation of storm shelters. This rule was first adopted and published in the January 2018 edition of the *Louisiana Register* (Vol. 44, No. 01). The rule became effective on February 1, 2018. This Emergency Rule is being promulgated to continue those provisions. It was favorably voted on by the Uniform Construction Code Council on March 12, 2019. By the signature of the agency head, Chief H. "Butch" Browning, Jr., it was adopted and became effective on March 26, 2019. It shall be in effect for the maximum period allowed under the Act (120 days) or until adoption of the final Rule, whichever occurs first.

The adoption of the 2015 *International Building Code*, Section 423, provides for storm shelter requirements in specific parishes in the northern region of the state. These requirements include the construction of new, or the construction of additions to, facilities for schools and essential services such as fire, police, EMS and 911 call centers. Many design professionals, school boards and essential services agencies were unaware of this requirement. They secured funding in their proposed budgets without this requirement being addressed in the plans and specifications. Bonds were secured for funding based on the older edition of the code, without the increased cost for storm shelters factored into the cost projections. Due to the increased cost not being provided for in the budgeting of new schools, essential services projects were being canceled or placed on indefinite hold until new funding could be secured. This Emergency Rule addresses this requirement by providing for a delay in the effective date for enforcement. This delay also allows for more public input into the

implementation timeline and any needed amendments to this section of the *International Building Code*.

The public welfare dictates that these changes be implemented immediately through the adoption of the Emergency Rule to promote greater safety to existing facilities undergoing renovations and for new proposed facilities to include these storm shelter requirements in securing funding. The public welfare further dictates that these changes are implemented immediately through the adoption of the Emergency Rule because of the health risks these amendments address. Adoption of this Emergency Rule will allow owners and developers to immediately use these new standards in expanding existing facilities or constructing new facilities. Adoption of this Emergency Rule will also provide proven methods for storm shelters and new technology which will ensure the health, safety and welfare of not only school age children but for the public as well.

Title 17

CONSTRUCTION

Part I. Uniform Construction Code

Chapter 1. Uniform Construction Code

§101. Louisiana State Uniform Construction Code (Formerly LAC 55:VI.301.A)

A. In accordance with the requirements set forth in R.S. 40:1730.28, effective February 1, 2018 the following is hereby adopted as an amendment to the Louisiana State Uniform Construction Code.

1. Projects submitted for permitting prior to January 1, 2020 shall not be required to comply with the 2015 IBC Section 423, Storm Shelters.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1730.22(C) and (D) and 40:1730.26(1).

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, State Uniform Construction Code Council, LR 33:291 (February 2007), amended LR 34:93 (January 2008), LR 34:883 (May 2008), LR 34:2205 (October 2008), LR 35:1904 (September 2009), LR 36:2574 (November 2010), effective January 1, 2011, LR 37:601 (February 2011), LR 37:913 (March 2011), repromulgated LR 37:2187 (July 2011), repromulgated LR 37:2726 (September 2011), LR 37:3065 (October 2011), LR 38:1994 (August 2012), amended by the Department of Public Safety and Corrections, Uniform Construction Code Council, LR 39:1825 (July 2013), LR 39:2512 (September 2013), LR 40:2609 (December 2014), amended by the Department of Public Safety and Corrections, Office of State Fire Marshal, LR 41:2380 (November 2015), amended by the Department of Public Safety and Corrections, Office of the State Fire Marshal, Uniform Construction Code Council, LR 42:1672 (October 2016), LR 44:75 (January 2018), LR 45:

Chief H. "Butch" Browning, Jr.
State Fire Marshal

1904#002

DECLARATION OF EMERGENCY

Department of Wildlife and Fisheries Wildlife and Fisheries Commission

2018-2019 Recreational Greater Amberjack Season Closure

Louisiana's private recreational greater amberjack season was previously open from August 1, 2018 through October

31, 2018 and scheduled to reopen on May 1, 2019. The fishing year for greater amberjack is from August 1 through July 31 of the next year with fixed closed seasons from November 1 through April 30 and June 1 through July 31. The regional administrator of NOAA Fisheries has informed the secretary that the 2018-2019 recreational season for the harvest of greater amberjack in the federal waters of the Gulf of Mexico will remain closed and not reopen on May 1, 2019 as previously scheduled. Data indicate that the 2018-2019 recreational annual catch target of 902,185 pounds has been met and a closure is necessary to prevent overfishing.

In accordance with the emergency provisions of R.S. 49:953, which allows the Department of Wildlife and Fisheries and the Wildlife and Fisheries Commission to use emergency rules to set finfish seasons, R.S. 56:326.3 which provides that the Wildlife and Fisheries Commission may set seasons for saltwater finfish, and the authority given to the secretary by the commission in LAC 76:VII.335.G.5 to modify opening and closing dates of any commercial or recreational reef fish seasons in Louisiana state waters when he is informed by the regional administrator of NOAA fisheries that the seasons have been closed in adjacent federal waters, the secretary hereby declares:

The season for the recreational harvest of greater amberjack in Louisiana state waters shall remain closed until the start of the 2019-2020 recreational season, currently scheduled to open on August 1, 2019. Effective with this closure, no person shall recreationally harvest or possess greater amberjack whether within or without Louisiana waters.

Jack Montoucet
Secretary

1904#014

DECLARATION OF EMERGENCY

Department of Wildlife and Fisheries Wildlife and Fisheries Commission

2019 Recreational Gray Triggerfish Season Closure

Louisiana's private recreational gray triggerfish season was previously opened on March 1, 2019. The regional administrator of NOAA Fisheries has informed the secretary that the recreational season for gray triggerfish in the federal waters of the Gulf of Mexico will close at 12:01 a.m. on May 11, 2019. Data indicate that the 2019 recreational annual catch target of 217,100 pounds has been projected to be met and a closure is necessary to prevent overfishing.

In accordance with the emergency provisions of R.S. 49:953, which allows the Department of Wildlife and Fisheries and the Wildlife and Fisheries Commission to use emergency rules to set finfish seasons, R.S. 56:326.3 which provides that the Wildlife and Fisheries Commission may set seasons for saltwater finfish, and the authority given to the secretary by the commission in LAC 76:VII.335.G.5 to modify opening and closing dates of any commercial or recreational reef fish seasons in Louisiana state waters when he is informed by the regional administrator of NOAA fisheries that the seasons have been closed in adjacent federal waters, the Secretary hereby declares:

The season for the recreational harvest of gray triggerfish in Louisiana state waters shall close at 12:01 a.m. on Saturday, May 11, 2019 and shall remain closed until the scheduled opening of the 2020 season on March 1, 2020. Effective with this closure, no person shall recreationally harvest or possess gray triggerfish whether within or without Louisiana waters.

Jack Montoucet
Secretary

1904#009

DECLARATION OF EMERGENCY

Department of Wildlife and Fisheries Wildlife and Fisheries Commission

2019 Private Recreational Red Snapper Season

In 2018, NOAA Fisheries issued an Exempted Fishing Permit (EFP) allowing private recreational anglers to harvest red snapper from the federal waters of the Exclusive Economic Zone (EEZ) during the state seasons set by the Wildlife and Fisheries Commission for the 2018 and 2019 seasons. The EFP mandated a maximum private recreational and state charter guide allocation of 816,439 pounds of red snapper for 2019. Any state season or seasons shall be closed once this allocation is reached or projected to be reached. State-permitted charter guides are only allowed to fish for red snapper within state waters (less than 9 nautical miles from the Louisiana coast). Federally-permitted charter vessels are not part of the EFP and can only harvest red snapper during seasons determined by NOAA Fisheries whether inside or outside state waters and regardless of established seasons in state waters.

In accordance with the emergency provisions of R.S. 49:953, which allows the Department of Wildlife and Fisheries and the Wildlife and Fisheries Commission to use emergency rules to set finfish seasons and R.S. 56:326.3, which provides that the Wildlife and Fisheries Commission may set seasons for saltwater finfish, the Commission hereby declares:

The 2019 recreational red snapper season, previously scheduled to open on April 13, 2019 in LAC 76:VII.335, shall be open on weekends only (Friday, Saturday, and Sunday, including the Monday of Memorial Day and the Thursday of the Fourth of July), beginning at 12:01 a.m. on Friday, May 24, 2019, until further notice. Size and bag limits shall remain at the currently established limits in LAC 76:VII.335 of 16 inches total length and 2 fish per person per day. This season will be in accordance with the provisions of the Louisiana EFP that allows for take within State and Federal waters out to 200 nautical miles.

The Commission further authorizes the secretary of the department, upon notification of the Chairman of the Commission, to modify the recreational season for the harvest of red snapper as he deems appropriate.

Any closure shall prohibit the possession and/or landing of red snapper in state waters, except for federally permitted charter vessels or commercial Individual Fishing Quota

holders operating under federal law during federally established seasons.

Alfred R. Sunseri
Chairman

1904#020

DECLARATION OF EMERGENCY

Department of Wildlife and Fisheries Wildlife and Fisheries Commission

Reopening of Oyster Season for Bedding Purposes
Lake Borgne and a Portion of Mississippi Sound (St.
Bernard Parish) and a portion of Atchafalaya Bay
(St. Mary Parish) Public Oyster Seed Grounds

In accordance with the emergency provisions of Revised Statutes (R.S.) 49:953, under the authority of R.S. 56:433, and under the authority granted to the secretary of the Department of Wildlife and Fisheries by the Wildlife and Fisheries Commission on August 2, 2018, the secretary hereby declares that the following portions of the public oyster seed grounds shall open for the harvest of oysters for bedding purposes only at one-half hour before sunrise on Thursday, March 14, 2019 and shall close at one-half hour after sunset on Saturday, March 16, 2019:

A. The Lake Borgne Public Oyster Seed Ground, as described in LAC 76:VII.513, and;

B. The Oyster Public Seed Ground west of longitudinal line 89 degrees 28 minutes 00.000 seconds W., within the areas of Louisiana Department of Health (LDH) Harvest Area 1 and 2 west of the longitudinal line, and;

C. A portion of the Vermilion/East and West Cote Blanche Bay/Atchafalaya Bay Public Oyster Seed Grounds, as described in LAC 76:VII.507 and LAC 76:VII.509 within LDH Area 25 that is currently open for harvest of oysters for market sales.

D. The special bedding-only season described above shall be opened with the following provisions:

1. For the areas currently designated as "closed" by LDH, the following rules shall follow: The area is opening to allow for the permitted transplant or relay, of live oysters for bedding purposes only. Oysters may only be transplanted from the area within the public oyster seed grounds described above which are currently closed by the Louisiana Department of Health (LDH). All individuals found harvesting in this area must possess a valid LDH Oyster Transplant Permit.

2. For the areas designated as "open" according to LDH area: these areas are currently open for market size harvest, and no permit is needed for these areas.

E. The following provisions shall apply to all harvesters during the special bedding season:

1. A vessel is 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 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. The harvest of seed oysters from a public oyster seed ground or reservation shall be for the purpose of moving the live oyster resource. The removal of more than 15 percent of non-living reef material in bedding loads is prohibited. All vessels shall allow on-board inspection and sampling of seed oyster loads by LDWF biologists and/or agents.

4. No oyster harvester who is actively harvesting oysters for bedding in the public oyster seed ground described above shall have on board his vessel any sacks or containers which may be used to hold oysters for transport to market. Harvesters shall 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.

5. No harvester shall sell, or transport with his vessel, oysters intended for market sales on the same day that he/she harvested seed oysters from the public seed grounds described above.

6. Any individual actively harvesting oysters in the public oyster seed grounds designated as "closed" by LDH shall be properly permitted for such transplant by LDH in accordance with the state sanitary code.

Harvestable quantities of oyster resources exist in these public oyster seed grounds and the opening of the Bonnet Carré Spillway and high flow of the Atchafalaya River may place those resources in imminent peril. As significant oyster mortalities could be experienced due to the anticipated depression of salinity, allowing limited harvest of the resource prior to the possible oyster mortality is in the best interest of the public.

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.

Jack Montoucet
Secretary

1904#005

DECLARATION OF EMERGENCY

Department of Wildlife and Fisheries Wildlife and Fisheries Commission

Reopening of Oyster Season for Bedding Purposes
Lake Borgne and Mississippi Sound (St. Bernard Parish)
Public Oyster Seed Grounds

In accordance with the emergency provisions of Revised Statutes (R.S.) 49:953, under the authority of R.S. 56:433, and under the authority granted to the secretary of the Department of Wildlife and Fisheries by the Wildlife and Fisheries Commission on August 2, 2018, the secretary hereby declares that the following portions of the public oyster seed grounds shall open for the harvest of oysters for

bedding purposes only at one-half hour before sunrise on Tuesday, March 19, 2019 and shall close at one-half hour after sunset on Thursday, March 21, 2019:

A. The Lake Borgne Public Oyster Seed Ground, as described in LAC 76:VII.513, and;

B. That portion of the Mississippi Sound Public Oyster Seed Ground, as described in LAC 76:VII.511 within the Louisiana Department of Health (LDH) Shellfish Harvest Areas 1 and 2 as described in the LDH Molluscan Shellfish Program March-April 2019 Reclassification Line – Frames 1-13 (Map ID: 2019 MSP 03/19).

C. The following cultch plants in Mississippi Sound shall remain closed for the special bedding season within the following coordinates:

1. Mississippi Sound (2011) – St. Bernard Parish
 - a. 30 degrees 07 minutes 17.56 seconds N
89 degrees 27 minutes 52.39 seconds W
 - b. 30 degrees 07 minutes 26.94 seconds N
89 degrees 27 minutes 36.20 seconds W
 - c. 30 degrees 07 minutes 07.11 seconds N
89 degrees 26 minutes 45.48 seconds W
 - d. 30 degrees 06 minutes 40.93 seconds N
89 degrees 27 minutes 14.09 seconds W
2. 3 Mile Pass (2013) - St. Bernard Parish
 - a. 30 degrees 03 minutes 56.09 seconds N
89 degrees 22 minutes 32.52 seconds W
 - b. 30 degrees 03 minutes 56.70 seconds N
89 degrees 22 minutes 15.40 seconds W
 - c. 30 degrees 03 minutes 18.00 seconds N
89 degrees 22 minutes 06.30 seconds W
 - d. 30 degrees 03 minutes 30.49 seconds N
89 degrees 22 minutes 38.17 seconds W

D. The special bedding-only season described above shall be opened with the following provisions:

1. For the areas currently designated as “closed” by LDH, the following rules shall apply: The area is opening to allow for the permitted transplant, or relay, of live oysters for bedding purposes only. Oysters may only be transplanted from the area within the public oyster seed grounds described above which are currently closed by the Louisiana Department of Health (LDH). All individuals found harvesting in this area must possess a valid LDH Oyster Transplant Permit.

2. For the areas designated as “open” according to LDH: these areas are currently open for market size harvest, and no permit is needed for these areas.

E. The following provisions shall apply to all harvesters during the special bedding season:

1. A vessel is 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 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. The harvest of seed oysters from a public oyster seed ground or reservation shall be for the purpose of

moving the live oyster resource. The removal of more than 15 percent of non-living reef material in bedding loads is prohibited. All vessels shall allow on-board inspection and sampling of seed oyster loads by LDWF biologists and/or agents.

4. No oyster harvester who is actively harvesting oysters for bedding in the public oyster seed ground described above shall have on board his vessel any sacks or containers which may be used to hold oysters for transport to market. Harvesters shall 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.

5. No harvester shall sell, or transport with his vessel, oysters intended for market sales on the same day that he/she harvested seed oysters from the public seed grounds described above.

6. Any individual actively harvesting oysters in the public oyster seed grounds designated as “closed” by LDH shall be properly permitted for such transplant by LDH in accordance with the state sanitary code.

Harvestable quantities of oyster resources exist in these public oyster seed grounds and the opening of the Bonnet Carré Spillway may place those resources in imminent peril. As significant oyster mortalities could be experienced due to the depression of salinity, allowing limited harvest of the resource prior to the possible oyster mortality is in the best interest of the public.

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.

Jack Montoucet
Secretary

1904#003

DECLARATION OF EMERGENCY
Department of Wildlife and Fisheries
Wildlife and Fisheries Commission

Wildlife Management Areas—Turkey Season Closure

In accordance with the emergency provisions of R.S. 49:953(B) of the Administrative Procedure Act, the secretary of the Department of Wildlife and Fisheries hereby adopts the following Emergency Rule, March 25, 2019.

Due to excessive high water levels associated with excessive rainfall and backwater flooding, the majority of Grassy Lake and Richard K. Yancey Wildlife Management Areas are inundated with floodwater. Turkeys on these areas are confined to a small percentage of high ground that is not inundated, creating conditions for excessive harvest levels beyond what may occur under normal conditions. Continued unrestricted hunting poses a potential risk of overharvest of the turkey resource, eliminates fair chase, and may pose a safety risk to the hunting public because of the concomitant concentration of hunters in areas where turkeys are

abnormally concentrated. Therefore, until the high water recedes, it is deemed necessary to close turkey season on these Wildlife Management Areas.

In accordance with the provisions of R.S. 56:6.1, public access to and use of Grassy Lake and Richard K. Yancey Wildlife Management Areas in their entirety shall be closed to turkey hunting. This Declaration of Emergency shall

become effective March 25, 2019, and shall remain in effect for the maximum period allowed under the Administrative Procedure Act or until rescinded by the secretary.

Jack Montoucet
Secretary

1904#008

Rules

RULE

Department of Agriculture and Forestry Office of Animal Health and Food Safety

Turtles (LAC 7:XXI.Chapter 19)

In accordance with the Administrative Procedure Act, R.S. 49:950, et seq. the Department of Agriculture and Forestry (“Department”) amends LAC 7:XXI.Chapter 19 relative to turtles in Louisiana. The rule change codifies Act 69 of the 2017 Regular Legislative Session related to turtle farming to include deleting certain requirements for the export of turtles, updating the requirements for licensure as a certified turtle farmer, updating the requirements for turtle farms, and updating the language on inspections. Furthermore, the rule change removes certain turtle egg treatment methods that are obsolete, eliminates certain food and water inspection requirements, repeals a prohibition on the sale of eggs originating outside of Louisiana, and makes additional technical and clarifying changes. This Rule is hereby adopted on the day of promulgation.

Title 7

AGRICULTURE AND ANIMALS

Part XXI. Animals and Animal Health

Chapter 19. Turtles

§1901. Definitions

A. In addition to the definitions listed below, the definitions in R.S. 3:2358.3 shall apply to these regulations.

Agent—an authorized representative of the Department of Agriculture and Forestry.

Certified Laboratory—a laboratory which has a current certification or accreditation by the Federal Food and Drug Administration or other national certifying or accrediting agency to perform microbiological or residue testing of organic or inorganic samples and has a microbiologist on staff, and has been approved by the Department of Agriculture and Forestry.

Certified Turtle Farmer—a Louisiana individual, partnership, corporation or entity engaged in the breeding, hatching, propagating, raising, growing, receiving, shipping, transporting, exporting, distribution or sale of farm raised turtles and which have been licensed by the Department of Agriculture and Forestry.

Chain of Custody Form—a document approved by the department which verifies species, destination, origin, and turtle lot and which is used for transporting turtles within the state of Louisiana only.

Department—the Department of Agriculture and Forestry.

Exporter—a person who is licensed by the U.S. Fish and Wildlife Service to engage in the business of exporting groups of turtles or groups of turtle eggs.

Farm-Raised Turtle—any reptile of the order Testudines which is bred, born, raised, or kept, by a licensed turtle farmer within a closed circumscribed pond for the purpose of buying, selling, or trading in commerce.

Farmer-Exporter—a certified turtle farmer that is also licensed by the U.S. Fish and Wildlife Service to engage in the business of exporting groups of turtles or groups of turtle eggs.

Health Certificate—a document which certifies that the turtles or turtle eggs are free of visible signs of infectious, contagious or communicable disease, and which is signed by a veterinarian who is licensed in this state, federally accredited and approved by the Department of Agriculture and Forestry.

Licensed Turtle Farmer—a person engaged in the collection, hatching, sale or distribution of farm raised turtles or turtle eggs.

Person—any individual, partnership, association, organization, or corporation engaged in any phase of the farm raised turtle industry.

Quarantined Area—any area or premises which has been designated as quarantined by the department due to a finding of contamination with *Salmonella spp.*, or other bacteria harmful to other turtles or humans by a Louisiana licensed, accredited veterinarian or agent of the department.

Turtle Farm—any area of land or water used to breed, raise or keep farm-raised turtles.

Turtle Lot—any amount of turtles or eggs up to 20,000 in number, and may be used interchangeably with the term turtle group.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:2358.2.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Office of Animal Health Services, LR 12:224 (April 1986), amended by the Department of Agriculture and Forestry, Office of Animal Health Services, LR 17:350 (April 1991), amended by the Department of Agriculture and Forestry, Office of the Commissioner, LR 26:1567 (August 2000), amended by the Department of Agriculture and Forestry, Livestock Sanitary Board, LR 31:2210 (September 2005), repromulgated by the Department of Agriculture and Forestry, Office of Animal Health and Food Safety and the Board of Animal Health, LR 40:978 (May 2014), amended by the Department of Agriculture and Forestry, Office of Animal Health and Food Safety, LR 45:504 (April 2019).

§1903. Requirements for Turtle Farms

A. Each facility which houses farm-raised turtles or turtle eggs for the purpose of buying, selling, or trading in commerce shall contain the following: turtle pond(s), turtle laying area, egg washing area, treatment areas, hatching area, holding or post-hatching area, and inventory storage.

B. Each facility shall possess hot and cold water, hand washing facilities, cooling and ventilation capability, be free of rodents and pests, be properly disinfected, utilize stainless steel or non-porous tables, buckets and baskets, and have access to restroom facilities.

C. The facility shall be free of debris, trash and offensive odors.

D. Egg Washing and Treatment Areas of the Facility

1. All egg washing and treatment areas shall be lighted and ventilated.

2. All floors in the egg washing and treatment areas shall consist of concrete or non-porous covering with drainage sufficient to prevent the accumulation of water.

3. All surfaces in the egg washing and treatment areas which come in contact with turtles or turtle eggs shall be non-porous.

E. Hatching, Holding, and Post-Hatching Area of the Facility

1. The hatching, holding, post-hatching area shall be a separate identifiable room in which the temperature can be maintained and controlled.

2. The hatching, holding, post-hatching area shall be large enough to accommodate all designated groups of turtles that have not been sold.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:2358.2.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of the Commissioner, LR 26:1567 (August 2000), repromulgated by the Department of Agriculture and Forestry, Office of Animal Health and Food Safety and the Board of Animal Health, LR 40:979 (May 2014), amended by the Department of Agriculture and Forestry, Office of Animal Health and Food Safety, LR 45:504 (April 2019).

§1905. Inspections

A. All persons, licensed turtle farmers, turtle farms, farmer-exporters, exporters, and certified turtle farmers are subject to inspection by agents of the Louisiana Department of Agriculture and Forestry to insure compliance with this Chapter.

B. Inspections may include but are not limited to the following actions.

1. An agent may inspect the premises of persons, turtle farms, farmer-exporters, exporters, and certified turtle farmers to insure that no turtles or eggs belonging to different groups are commingled without first receiving the documentation required by La. R.S. 3:2358.7 and §1919 of this Chapter.

2. An agent may inspect the premises of persons, turtle farms, farmer-exporters, exporters, and certified turtle farmers to insure that each turtle lot is clearly identified and is not improperly commingled with saleable or hatchable eggs of other turtle lots.

3. An agent may inspect the records of persons, turtle farms, farmer-exporters, exporters, and certified turtle farmers to verify that all documentation required by La. R.S. 3:2358.7 and §1919 of this Chapter is current.

4. An agent may take samples of water from ponds, turtles, and turtle eggs which shall be transmitted to a certified laboratory for chemical and microbiological analysis, including, but not limited to pH, antibiotic and pesticide contaminants, and potentially pathogenic bacteria.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:2358.2.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Office of Animal Health Services, LR 12:224 (April 1986), amended by the Department of Agriculture and Forestry, Office of Animal Health Services, LR 17:350 (April 1991), amended by the Department of Agriculture and Forestry, Office of the Commissioner, LR 26:1568 (August 2000), repromulgated by the Department of Agriculture and Forestry, Office of Animal Health and Food Safety and the Board of Animal Health, LR 40:979 (May 2014), amended by the Department of Agriculture and Forestry, Office of Animal Health and Food Safety, LR 45:505 (April 2019).

**§1907. Collection of Egg and Turtle Samples
(Formerly §2305)**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:2358.2, 3:2358.9, 3:2358.10 and 3:2358.12.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Animal Health Services, LR 17:351 (April 1991), amended by the Department of Agriculture and Forestry, Office of the Commissioner, LR 26:1568 (August 2000), amended by the Department of Agriculture and Forestry, Livestock Sanitary Board, LR 31:2210 (September 2005), repromulgated by the Department of Agriculture and Forestry, Office of Animal Health and Food Safety and the Board of Animal Health, LR 40:980 (May 2014), repealed by the Department of Agriculture and Forestry, Office of Animal Health and Food Safety, LR 45:505 (April 2019).

§1909. Prohibitions

A. No person may import turtles or turtle eggs of any species from any other state or foreign country unless they are a certified turtle farmer.

B. Viable turtle eggs and live turtles with a carapace length of less than four inches shall not be sold or offered for any other type of commercial or public distribution within the state of Louisiana.

1. Exceptions:

a. the sale, holding for sale, and distribution of viable turtle eggs and live turtles with a carapace length of less than four inches for bona fide scientific, educational, or exhibitional purposes, other than use as pets;

b. the sale and distribution of viable turtle eggs and live turtles with a carapace length of less than four inches to a certified turtle farmer.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:2358.2 and 3:2358.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Animal Health Services, LR 17:351 (April 1991), amended by the Department of Agriculture and Forestry, Office of the Commissioner, LR 26:1569 (August 2000), repromulgated by the Department of Agriculture and Forestry, Office of Animal Health and Food Safety and the Board of Animal Health, LR 40:980 (May 2014), amended by the Department of Agriculture and Forestry, Office of Animal Health and Food Safety, LR 45:505 (April 2019).

§1911. Identification of Lots of Turtles and Turtle Eggs

A. All lots of turtles or turtle eggs produced by persons in Louisiana shall be assigned a lot number on a department-approved form.

B. No turtle lot shall exceed 20,000 viable hatchlings or eggs.

C. All farm-raised turtle eggs shall originate from certified turtle farmers. They shall be identifiable by lot number.

D. All farm-raised turtles, including but not limited to turtles raised to replenish pond stock and turtles raised to a four- inch carapace length for the pet trade, shall be placed in a designated lot and remain a component of the same lot until they are sold, destroyed or removed from the facility's premises

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:2358.2 and 3:2358.7.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Animal Health Services, LR 17:351 (April 1991), amended by the Department of Agriculture and Forestry, Office of the Commissioner, LR 26:1569 (August

2000), repromulgated by the Department of Agriculture and Forestry, Office of Animal Health and Food Safety and the Board of Animal Health, LR 40:981 (May 2014), amended by the Department of Agriculture and Forestry, Office of Animal Health and Food Safety, LR 45:505 (April 2019).

§1913. Microbiological Test Procedures

A. Samples of turtles or turtle eggs may be subjected to microbiological examination using approved procedures and techniques based upon procedures used by the certified laboratory.

B. Turtle lots identified as testing positive for *Salmonella* spp. or any other microorganisms pathogenic to humans, domestic animals or aquatic species shall be reported to the Office of the State Veterinarian and the lot number verified by the Department.

C. If any turtle or turtle lot tests positive for *Salmonella* spp., then the person may request a retest. Samples of the retest must be submitted when requested by agents of the department. The person may request a retest of the lot as a whole using the same sampling procedures as used for the original test or the person may subdivide the affected positive lot into a maximum of four equal subgroups. Each such subgroup shall be separately identified, simultaneously randomly sampled and tested. The Louisiana Veterinary Medical Diagnostic Laboratory shall conduct the retesting, whether from the lot as a whole or from any of the subgroups. The Louisiana Animal Disease Diagnostic Laboratory test results, shall be the final and conclusive test results.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:2358.2.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Animal Health Services, LR 17:351 (April 1991), amended by the Department of Agriculture and Forestry, Office of the Commissioner, LR 26:1570 (August 2000), LR 30:1445 (July 2004), amended by the Department of Agriculture and Forestry, Livestock Sanitary Board, LR 31:2210 (September 2005), repromulgated by the Department of Agriculture and Forestry, Office of Animal Health and Food Safety and the Board of Animal Health, LR 40:981 (May 2014), amended by the Department of Agriculture and Forestry, Office of Animal Health and Food Safety, LR 45:506 (April 2019).

§1915. Issuance of Health Certificates (Formerly §2313)

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:2358.2, 3:2358.9 and 3:2358.10.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Office of Animal Health Services, LR 17:352 (April 1991), amended by the Department of Agriculture and Forestry, Office of the Commissioner, LR 26:1570 (August 2000), amended by the Department of Agriculture and Forestry, Livestock Sanitary Board, LR 31:2211 (September 2005), repromulgated by the Department of Agriculture and Forestry, Office of Animal Health and Food Safety and the Board of Animal Health, LR 40:981 (May 2014), repealed by the Department of Agriculture and Forestry, Office of Animal Health and Food Safety, LR 45:506 (April 2019).

§1917. Quarantine (Formerly §2315)

A. Upon testing positive for *Salmonella* spp. or other pathogenic bacteria, eggs and turtles shall be subject to quarantine, inventory and verification by agents of the department.

B. Quarantined turtles and eggs shall be sealed under supervision of agents of the department to prevent the spread

of pathogenic bacteria until the person receives notice of either:

1. the lifting of the quarantine; or
2. instructions dealing with the disposal of the quarantined turtle or egg lot.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:2358.2,

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Animal Health Services, LR 17:352 (April 1991), amended by the Department of Agriculture and Forestry, Office of the Commissioner, LR 26:1570 (August 2000), repromulgated by the Department of Agriculture and Forestry, Office of Animal Health and Food Safety and the Board of Animal Health, LR 40:981 (May 2014), amended by the Department of Agriculture and Forestry, Office of Animal Health and Food Safety, LR 45:506 (April 2019).

§1919. Form and Content of Records

A. All farm-raised turtles imported into this state shall be accompanied by a health certificate and meet the specific requirements of LAC 7:XXI.501.

B. Any person engaged in the breeding, hatching, propagating, raising, growing, receiving, shipping, transporting, exporting, or sale of farm raise turtles shall maintain the following applicable documentation:

1. Turtle Group Distribution Document (AHS-24-99);
2. Daily Record Keeping for Turtles and Eggs (AHS-67-01);
3. department-issued license;
4. facility inspection reports;
5. laboratory results and reports;
6. U.S. Fish and Wildlife Service Form 3-177 (for exporters only);
6. health certificates; b
8. chain of custody form.

C. All records shall be maintained for a period of three years.

D. Falsification or misrepresentation of turtle groups or lots for sampling, testing or retesting is prohibited.

E. Alteration or falsification of records of turtle groups or lots and providing records for alteration or falsification of turtle groups or lots is prohibited.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:2358.2 and 3:2358.7.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Animal Health Services, LR 17:352 (April 1991), amended by the Department of Agriculture and Forestry, Office of the Commissioner, LR 26:1570 (August 2000), repromulgated by the Department of Agriculture and Forestry, Office of Animal Health and Food Safety and the Board of Animal Health, LR 40:982 (May 2014), amended by the Department of Agriculture and Forestry, Office of Animal Health and Food Safety, LR 45:506 (April 2019).

§1921. Certified Turtle Farmers; Licensing

A. No person shall breed, hatch, propagate, raise, grow, receive, ship, transport, export, or sell turtles or turtle eggs without possessing a turtle farmer license.

B. Each person applying for a turtle farmer license shall annually complete an application as provided by the department accompanied by an application fee of \$250. The application shall include the following information:

1. name of applicant;
2. date of application;
3. address of applicant;
4. telephone number of applicant;

5. whether the applicant is an individual, corporation, subchapter "S" corporation, cooperative or partnership;

6. principal officers of the applicant, if any;

7. location of applicant's principal office and farming premises;

8. location of all offices operated by applicant, along with the name of the manager and phone number of each;

9. the dates upon which the applicant begins and ends its fiscal year;

10. a map or schematic showing the location of ponds or other breeding habitats, storage, treatment and incubation buildings and facilities shall be included with all applications for a turtle farmer license. Each pond or breeding habitat shall be designated by a letter, beginning with "A", and shall be designated in sequential order and properly labeled on the map or schematic.

C. Prior to the issuance of an initial turtle farmer license, an inspection of the turtle farm facilities shall be made by an agent of the Department to insure compliance with this Chapter.

D. Upon issuance of an initial license by the department, certified turtle farmers shall be assigned a permanent licensed farmer identification code for use on all documents related to turtle farming.

E. In the case of the transfer of ownership of the person or entity that is the certified turtle farmer that person must reapply with the department for licensing as a certified turtle farmer and must meet all of the qualifications required for the issuance of an initial license.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:2358.2 and 3:2358.4.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Animal Health Services, LR 17:352 (April 1991), amended by the Department of Agriculture and Forestry, Office of the Commissioner, LR 26:1571 (August 2000), repromulgated by the Department of Agriculture and Forestry, Office of Animal Health and Food Safety and the Board of Animal Health, LR 40:982 (May 2014), amended by the Department of Agriculture and Forestry, Office of Animal Health and Food Safety, LR 45:506 (April 2019).

§1923. Proper Disposal (Formerly §2321)

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:2358.2, 3:2358.9 and 3:2358.10.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Office of Animal Health Services, LR 17:353 (April 1991), amended by the Department of Agriculture and Forestry, Office of the Commissioner, LR 26:1571 (August 2000), amended by the Department of Agriculture and Forestry, Livestock Sanitary Board, LR 31:2211 (September 2005), repromulgated by the Department of Agriculture and Forestry, Office of Animal Health and Food Safety and the Board of Animal Health, LR 40:983 (May 2014), repealed by the Department of Agriculture and Forestry, Office of Animal Health and Food Safety, LR 45:507 (April 2019).

§1925. Authority of Agents to Enter Premises

A. Agents of the department are authorized and shall be allowed entry onto any property or premises in the state of Louisiana for the purpose of carrying out the provisions of these regulations. Whenever reasonably possible, agents shall notify the person before performing any inspections.

B. Agents of the department are authorized to inspect all records and premises in order to enforce the provisions of R.S. 3:2358.1 et seq., and these regulations.

C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:2358.2.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Animal Health Services, LR 17:353 (April 1991), amended by the Department of Agriculture and Forestry, Office of the Commissioner, LR 26:1571 (August 2000), repromulgated by the Department of Agriculture and Forestry, Office of Animal Health and Food Safety and the Board of Animal Health, LR 40:983 (May 2014), amended by the Department of Agriculture and Forestry, Office of Animal Health and Food Safety, LR 45:507 (April 2019).

§1927. Department Issued Guidelines

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:2358.2.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Animal Health Services, LR 17:353 (April 1991), amended by the Department of Agriculture and Forestry, Office of the Commissioner, LR 26:1571 (August 2000), repromulgated by the Department of Agriculture and Forestry, Office of Animal Health and Food Safety and the Board of Animal Health, LR 40:983 (May 2014), repealed by the Department of Agriculture and Forestry, Office of Animal Health and Food Safety, LR 45:507 (April 2019).

§1929. Penalties

A. A penalty of not more than \$1000 may be assessed for any violation of this Chapter, by a ruling of the commissioner based on an adjudicatory hearing held in accordance with the Administrative Procedure Act. Each day on which a violation occurs shall be considered a separate offence.

B. The commissioner may deny renewal or revoke the license of a certified turtle farmer for any violation of the provisions of R.S. 3:2358.1 et seq. or for any violation of this Chapter after an adjudicatory hearing held in accordance with the Administrative Procedure Act.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:2358.2 and 3:2358.14.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Office of Animal Health Services, LR 12:225 (April 1986), amended by the Department of Agriculture and Forestry, Office of Animal Health Services, LR 17:353 (April 1991), amended by the Department of Agriculture and Forestry, Office of the Commissioner, LR 26:1572 (August 2000), repromulgated by the Department of Agriculture and Forestry, Office of Animal Health and Food Safety and the Board of Animal Health, LR 40:983 (May 2014), amended by the Department of Agriculture and Forestry, Office of Animal Health and Food Safety, LR 45:507 (April 2019).

§1931. Repeal of Prior Rules and Regulations

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:2358.2.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Livestock Sanitary Board, LR 11:247 (March 1985), amended LR 11:615 (June 1985), amended by the Department of Agriculture and Forestry, Office of Animal Health Services, LR 17:353 (April 1991), amended by the Department of Agriculture and Forestry, Office of the Commissioner, LR 26:1572 (August

2000), repromulgated by the Department of Agriculture and Forestry, Office of Animal Health and Food Safety and the Board of Animal Health, LR 40:984 (May 2014), repealed by the Department of Agriculture and Forestry, Office of Animal Health and Food Safety, LR 45:507 (April 2019).

Mike Strain, DVM
Commissioner

1904#038

RULE

Department of Children and Family Services Division of Child Welfare

Extended Foster Care Services (LAC 67:V.3903)

In accordance with the Provisions of the Administrative Procedure Act R.S. 49:953(A), the Department of Children and Family Services (DCFS) has promulgated LAC 67:V, Subpart 5, Foster Care, Chapter 39, Chafee Foster Care Independence Program and Extended Foster Care, Section 3903.

Pursuant to R.S. 46:286.24, DCFS will implement extended foster care services for foster care youth between the ages of 18 to 21 who are in high school or pursuing a high school equivalent credential. This Rule is hereby adopted on the day of promulgation, and it is effective on May 1, 2019.

Title 67

SOCIAL SERVICES

Part V. Child Welfare

Subpart 5. Foster Care

Chapter 39. Chafee Foster Care Independence Program and Extended Foster Care

§3903. Extended Foster Care Services

A. The DCFS will continue to provide foster care services to young adults age 18 to 21 who are a full-time high school student or in the process of receiving an equivalent credential. They shall be eligible for foster care services until their high school graduation; completion of their equivalent credential or, their twenty-first birthday, whichever comes first. The young adult in foster care shall be eligible for all foster care services in accordance with their case plan; and, their foster parents, custodian or other placement provider continued services and benefits for the period of time the young adult is eligible and participating in the extended foster care program. The DCFS will notify all foster children and their foster parents/custodians/placement provider in writing of the availability of extended foster care services; eligibility for the services; and, the benefits at the foster child's seventeenth birthday. The written notifications will continue every 90 days unless the foster child and foster parents/custodian/placement provider consent to participate in extended foster care, or the child becomes ineligible for participation in the program.

AUTHORITY NOTE: Promulgated in accordance with Act 649 of the 2018 Regular Session and R.S. 46:286.24.

HISTORICAL NOTE: Promulgated by the Department of Children and Family Services, Child Welfare, LR 45:508 (April 2019), effective May 1, 2019.

Marketa Garner Walters
Secretary

1904#023

RULE

Department of Children and Family Services Licensing Section

State Central Registry—Child Residential Care, Class B
(LAC 67:V.Chapter 69)

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 69, Child Residential Care, Class B.

The Rule amends Chapter 69, Child Residential Care, Class B, Sections 6955, 6957, 6959, and 6961, and promulgates Section 6962. In accordance with R.S. 46:1414.1 of the 2017 Regular Legislative Session, any owner, current or prospective employee, or volunteer requesting licensure or licensed by the DCFS is prohibited from ownership or employment if that person's name is recorded on the state central registry as a perpetrator with a justified finding of child abuse and/or neglect. The implementation of this Rule will ensure that no individual with a justified finding of child abuse and/or neglect listed on the state central registry owns or is employed in a facility licensed by DCFS. This Rule is hereby adopted on the day of promulgation, and it is effective May 1, 2019.

Title 67

SOCIAL SERVICES

Part V. Child Welfare

Subpart 8. Residential Licensing

Chapter 69. Child Residential Care, Class B

§6955. Procedures

NOTE: This Section has been moved from LAC 67:I.1955.

A. - D.2.g. ...

h. any validated instance of abuse and/or neglect as noted by inclusion on the state central registry if the owner's name appears on the registry, or if the staff member's name appears on the registry and remains in the employment of the licensee;

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

j. - k. ...

l. have knowledge that a convicted sex offender is on the premises of the child care facility and fail to notify law enforcement and licensing management staff immediately upon receipt of such knowledge;

m. have knowledge that a convicted sex offender is physically present within 1,000 feet of the child care facility and fail to notify law enforcement immediately upon receipt of such knowledge; or

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

E. - G.2.d. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:477, R.S. 46:1410 et seq., R.S.46:1401-1424 and R.S. 46:1414.1.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of the Secretary, Bureau of Licensing, LR 27:1565 (September 2001), repromulgated by the Department of Social Services, Office of the Secretary, Bureau of Residential Licensing, LR 33:2740 (December 2007), repromulgated by the Department of Social Services, Office of Community Services, LR 35:1617 (August 2009), amended LR 36:331 (February 2010), LR 36:836, 842 (April 2010), repromulgated LR 36:1032 (May 2010), repromulgated LR 36:1277 (June 2010), amended by the Department of Children and Family Services, Child Welfare Section, LR 36:1463 (July 2010), amended by the Department of Children and Family Services, Child Welfare Section and Economic Stability and Self-Sufficiency Section, LR 36:2522 (November 2010), repromulgated LR 36:2838 (December 2010), amended by the Department of Children and Family Services, Division of Programs, Licensing Section, LR 38:971 (April 2012), amended by the Department of Children and Family Services, Licensing Section, LR 45:508 (April 2019), effective May 1, 2019.

§6957. Definitions

NOTE: This Section has been moved from LAC 67:1.1957.

Individual Owner—Repealed.

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

1. For licensing purposes the following are considered owners:

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

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

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

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

Ownership—Repealed.

1. - 2. Repealed

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

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

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:477 and R.S. 46:1410 et seq.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of the Secretary, Bureau of Licensing, LR 27:1567 (September 2001), repromulgated by the Department of Social Services, Office of the Secretary, Bureau of Residential Licensing, LR 33:2742 (December 2007), repromulgated by the Department of Social Services, Office of Community Services, LR 35:1619 (August 2009), amended by the Department of Children and Family Services, Division of Program, Licensing Sections, LR 38:972 (April 2012), amended by the Department of Children and Family Services, Licensing Sections, LR 45:509 (April 2019), effective May 1, 2019.

§6959. Administration and Organization

NOTE: This Section has been moved from LAC 67:1.1959.

A. - B.2. ...

3. Owners shall have a fingerprint based criminal background check from the Louisiana State Police on file with the residential home in accordance with R.S. 46:51.2 and 15:587.1. If an individual has previously obtained a certified copy of their criminal background check from the Louisiana State Police, such certified copy shall be acceptable as meeting the CBC requirements. If an owner obtains a certified copy of their criminal background check from the Louisiana State Police, this criminal background check shall be accepted for a period of one year from the date of issuance of the certified copy. This certified copy shall be kept on file at the facility. Prior to the one-year expiration of the certified criminal background check, a new fingerprint-based satisfactory criminal background check shall be obtained from Louisiana State Police. If the clearance is not obtained prior to the one-year expiration of the certified criminal background check, the owner is no longer allowed on the premises until a clearance is received.

a. This check shall be obtained prior to the license being issued, the addition of a board member who meets the definition of an owner, an individual being present on the premises, or an individual having access to children/youth.

b. No person shall own, operate, or participate in the management or governance of a residential home until such person has submitted his or her fingerprints to Louisiana State Police and it has been determined that such person has not been convicted of, or pled guilty or nolo contendere to any crime listed in R.S. 15:587.1(C).

c. No person who has been convicted of, or pled guilty or nolo contendere to any offense included in R.S. 15:587.1(C), shall own, operate, or participate in the management or governance of a residential home.

d. Any owner or operator who is convicted of, or pled guilty or nolo contendere to any crime listed in R.S. 15:587.1(C) shall not continue in the management or governance after such conviction, guilty plea, or plea of nolo contendere.

e. Only certified CBCs obtained by the individual for themselves from LSP are transferable from one owner to another owner.

4. The following is a listing of individuals by organizational type who are required to submit documentation of a satisfactory fingerprint-based criminal background clearance from the Louisiana State Police:

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

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

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

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

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

6. Effective May 1, 2019, CBCs/attestation forms shall be dated no earlier than 45 days prior to the initial application being received by the Licensing Section, or the individual being present on the premises, or having access to children/youth.

7. Providers and child care staff shall not permit an individual convicted of a sex offense as defined in R.S. 15:541 to have physical access to a child residential facility as defined in R.S. 46:1403.

8. The owner or director of a child residential facility shall be required to call and notify law enforcement personnel and the Licensing Section management staff if they have knowledge that a registered sex offender is on the premises of the child residential facility. The verbal report shall be followed by a written report to the Licensing Section within 24 hours. The owner or director of a child residential facility shall be required to call and notify law enforcement personnel if they have knowledge that a registered sex offender is within 1,000 feet of the child day care facility as required by R.S. 14:91.1.

9. All owners shall have documentation of a state central registry clearance as required in §6962.

10. In accordance with R.S. 46:1428 providers shall make available to each child's parent or legal guardian information relative to the risks associated with influenza and the availability, effectiveness, known contraindications and possible side effects of the influenza immunization. This information shall include the causes and symptoms of influenza, the means by which influenza is spread, the places a parent or legal guardian may obtain additional information and where a child may be immunized against influenza. The information shall be updated annually if new information on the disease is available. The information shall be provided annually to each licensed facility by the Department of Children and Family Services and shall be made available to parents or legal guardians prior to November 1 of each year.

C. - O.1.h. ...

i. documentation of a state central registry clearance as required in §6962.

O.2. - R.1. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:477 and R.S. 46:1401 et seq.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of the Secretary, Bureau of Licensing, LR 27:1567 (September 2001), repromulgated by the Department of Social Services, Office of the Secretary, Bureau of Residential Licensing, LR 33:2743 (December 2007), repromulgated by the Department of Social Services, Office of Community Services, LR 35:1620 (August 2009), amended LR 36:331 (February 2010), amended by the Department of Children and Family Services, Division of Programs, Licensing Section, LR 38:973 (April 2012), amended by the Department of Children and Family Services, Licensing Section, LR 45:509 (April 2019), effective May 1, 2019.

§6961. Human Resources

NOTE: This Section has been moved from LAC 67:I.1961.

A. - E.5. ...

6. free of a valid finding of child abuse and/or neglect as noted on the state central registry in accordance with §6962.

F. - F.3. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:477 and R.S. 46:1410 et seq.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of the Secretary, Bureau of Licensing, LR 27:1570 (September 2001), repromulgated by the Department of Social Services, Office of the Secretary, Bureau of Residential Licensing, LR 33:2745 (December 2007), repromulgated by the Department of Social Services, Office of Community Services, LR 35:1622 (August 2009), amended by the Department of Children and Family Services, Division of Programs, Licensing Section, LR 38:975 (April 2012), amended by the Department of Children and Family Services, Licensing Section, LR 45:510 (April 2019), effective May 1, 2019.

§6962. State Central Registry

A. State Central Registry Checks for Owners

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

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

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

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

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

4. If an owner/operator resided in another state within the proceeding five years, provider shall request a check and obtain clearance information from that state's child abuse and neglect registry prior to the license being issued or if currently licensed, prior to the addition of a new board member who meets the definition of an owner. No person who is recorded on any state's child abuse and neglect registry with a justified (valid) finding of abuse and/or neglect of a child shall be eligible to own, operate, or participate in the governance of a residential home.

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

5. Upon notification from child welfare that an owner/operator(s) is not listed on the state central registry, the provider shall maintain on file the child welfare

notification that the owner's name does not appear on the registry with a justified (valid) finding of abuse and/or neglect.

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

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

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

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

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

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

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

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

B. State Central Registry Checks for Staff and Volunteers

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

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

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

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

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

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

form and at any time upon the request of DCFS if reasonable suspicion exists that a staff (paid, non-paid, and volunteers) may be listed on the state central registry.

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

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

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

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

C. State Central Registry Checks for Contractors

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

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

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

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

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

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

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

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

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

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

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

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

D. Reasonable Suspicion

1. Any information received or knowledge acquired by the provider that a current owner, contractor, volunteer and/or staff, is a perpetrator of abuse and/or neglect after

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

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

HISTORICAL NOTE: Promulgated by the Department of Children and Family Services, Licensing Section, LR 45:510 (April 2019), effective May 1, 2019.

Marketa Garner-Walters
Secretary

1904#022

RULE

Department of Children and Family Services Licensing Section

State Central Registry—Maternity Homes
and Residential Homes—Type IV
(LAC 67:V.Chapters 67 and 71)

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, Residential Licensing, Chapter 71, Residential Homes—Type IV, and Chapter 67, Maternity Home.

The Rule amends Chapter 67, Maternity Home, Sections 6703, 6708, and 6710; and Chapter 71, Residential Homes—Type IV, Sections 7105, 7107, 7109, and 7111. The Rule also promulgates Chapter 67, Maternity Home, Section 6712; and Chapter 71, Residential Homes—Type IV, Section 7112. In accordance with R.S. 46:1414.1 of the 2017 Regular Legislative Session, any owner, current or prospective employee, contractor, or volunteer requesting licensure or licensed by the DCFS is prohibited from ownership or employment if that person's name is recorded on the state central registry as a perpetrator with a justified finding of child abuse and/or neglect. The implementation of this Rule will ensure that no individual with a justified finding of child abuse and/or neglect listed on the state central registry owns, provides services for, or is employed in a facility licensed by DCFS. This Rule is hereby adopted on the day of promulgation, and it is effective on May 1, 2019.

Title 67 SOCIAL SERVICES Part V. Child Welfare Subpart 8. Residential Licensing

Chapter 67. Maternity Home

§6703. Definitions

A. - B.1. ...

Individual Owner—Repealed.

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

a. For licensing purposes the following are considered owners:

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

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

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

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

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

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

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

2. - 2.d. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:477 and R.S. 46:1401 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, Division of Licensing and Certification, LR 13:246 (April 1987), repromulgated by the Department of Social Services, Office of the Secretary, Bureau of Residential Licensing, LR 33:2694 (December 2007), repromulgated by the Department of Social Services, Office of Community Services, LR 35:1570 (August 2009), amended LR 36:799, 835 (April 2010), repromulgated LR 36:1275 (June 2010), amended by the Department of Children and Family Services, Child Welfare Section, LR 36:2521 (November 2010), amended by the Department of Children and Family Services, Division of Programs, Licensing Section, LR 38:968 (April 2012), LR 42:220 (February 2016), amended by the Department of Children and Family Services, Licensing Section, LR 45:514 (April 2019), effective May 1, 2019.

§6708. General Provisions

A. Conditions for Participation in a Child-Related Business

1. Owners shall have a fingerprint based criminal background check from the Louisiana State Police on file with the maternity home in accordance with R.S. 46:51.2 and 15:587.1. If an individual has previously obtained a certified copy of their criminal background check from the Louisiana State Police, such certified copy shall be acceptable as meeting the CBC requirements. If an owner obtains a certified copy of their criminal background check from the Louisiana State Police, this criminal background check shall be accepted for a period of one year from the date of issuance of the certified copy. This certified copy shall be kept on file at the facility. Prior to the one-year expiration of the certified criminal background check, a new fingerprint-based satisfactory criminal background check shall be obtained from Louisiana State Police. If the clearance is not obtained prior to the one-year expiration of the certified criminal background check, the owner is no longer allowed on the premises until a clearance is received.

a. This check shall be obtained prior to the license being issued, the addition of a board member who meets the definition of an owner, an individual being present on the premises, or an individual having access to children/youth.

b. No person shall own, operate, or participate in the management or governance of a maternity home until such person has submitted his or her fingerprints to Louisiana State Police and it has been determined that such person has not been convicted of, or pled guilty or nolo contendere to any crime listed in R.S. 15:587.1(C).

c. No person who has been convicted of, or pled guilty or nolo contendere to any offense included in R.S. 15:587.1(C), shall own, operate, or participate in the management or governance of a maternity home.

d. Any owner or operator who is convicted of, or pled guilty or nolo contendere to any crime listed in R.S. 15:587.1(C) shall not continue in the management or governance after such conviction, guilty plea, or plea of nolo contendere.

e. Only certified CBCs obtained by the individual for themselves from LSP are transferable from one owner to another owner.

2. The following is a listing of individuals by organizational type who are required to submit documentation of a satisfactory fingerprint-based criminal background clearance from the Louisiana State Police:

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

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

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

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

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

4. Effective May 1, 2019, CBCs/attestation forms shall be dated no earlier than 45 days prior to the initial application being received by the Licensing Section, or the individual being present on the premises, or having access to children/youth.

5. Providers and staff shall not permit an individual convicted of a sex offense as defined in R.S. 15:541 to have physical access to a maternity home as defined in R.S. 46:1403.

6. The owner or director of a maternity home shall be required to call and notify law enforcement personnel and the Licensing Section management staff if they have knowledge that a registered sex offender is on the premises of the maternity home. The verbal report shall be followed by a written report to the Licensing Section within 24 hours. The owner or director of a maternity home shall be required to call and notify law enforcement personnel if they have knowledge that a registered sex offender is within 1,000 feet of the maternity home as required by R.S. 14:91.1.

B. State Central Registry

1. All owners shall have documentation of a state central registry clearance as required in §6712.

C. - C.3.d. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1401 et seq.

HISTORICAL NOTE: Promulgated by the Department of Children and Family Services, Division of Programs, Licensing Section, LR 38:969 (April 2012), amended LR 42:220 (February 2016), amended by the Department of Children and Family Services, Licensing Section, LR 45:515 (April 2019), effective May 1, 2019.

§6710. Personnel Files

A. No person, having any supervisory or other interaction with residents, shall be hired or on the premises of the facility until such person has submitted his or her fingerprints to the Louisiana Bureau of Criminal Identification and Information and it has been determined that such person has not been convicted of or pled nolo contendere to a crime listed in R.S. 15:587.1(C). This shall include any employee/volunteer or non-employee who performs paid or unpaid work with the provider to include contractors, consultants, students, volunteers, trainees, or any other associated person, as defined in these rules.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1401 et seq.

HISTORICAL NOTE: Promulgated by the Department of Children and Family Services, Division of Programs, Licensing Section, LR 38:970 (April 2012), amended by the Department of Children and Family Services, Licensing Section, LR 45:516 (April 2019), effective May 1, 2019.

§6712. State Central Registry

A. State Central Registry Checks for Owners

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

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

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

3. In accordance with R.S. 46:1414.1, an inquiry of the state central registry for all owners and operators shall be conducted prior to a license being issued or if currently licensed, prior to the addition of a new board member who meets the definition of an owner. The Louisiana state central registry clearance form shall be dated no earlier than 45 days prior to the license being issued or the addition of a new board member who meets the definition of an owner. For

states other than Louisiana, clearance forms shall be dated no earlier than 120 days prior to the license being issued or the addition of a new board member who meets the definition of an owner. No person who is recorded on any state's child abuse and neglect registry with a valid justified (valid) finding of abuse or neglect of a child shall be eligible to own, operate, or participate in the governance of the maternity home.

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

4. If an owner/operator resided in another state within the preceding five years, provider shall request a check and obtain clearance information from that state's child abuse and neglect registry prior to the license being issued or if currently licensed, prior to the addition of a new board member who meets the definition of an owner. No person who is recorded on any state's child abuse and neglect registry with a justified (valid) finding of abuse and/or neglect of a child shall be eligible to own, operate, or participate in the governance of a maternity home.

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

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

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

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

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

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

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

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

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

B. State Central Registry Checks for Staff and Volunteers

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

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

b. Prior to May 1, 2019, all staff (paid, non-paid, and volunteers) were required to have on file a clearance from any other state's child abuse and neglect registry in which the staff (paid, non-paid, and volunteers) person

resided within the proceeding five years. No person who is recorded on any state's child abuse and neglect registry with a valid (justified) finding of abuse and/or neglect shall be eligible for employment in a licensed maternity home.

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

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

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

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

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

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

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

C. State Central Registry Checks for Contractors

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

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

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

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

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

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

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

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

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

h. Upon notification to the provider from child welfare that the contractor is listed on the state central registry, the individual shall no longer be eligible to provide services for the maternity home. The provider shall submit a signed, dated statement to licensing within 24 hours or no later than the next business day indicating that the individual with the valid (justified) finding of abuse and/or neglect has

been relieved of his duties with the maternity home with the effective date of termination of services. If this statement is not received by licensing within the aforementioned timeframe, the license shall be immediately revoked.

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

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

D. Reasonable Suspicion

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

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

HISTORICAL NOTE: Promulgated by the Department of Children and Family Services, Licensing Section, LR 45:516 (April 2019), effective May 1, 2019.

Chapter 71. Residential Homes—Type IV

§7105. Definitions

A. As used in this Chapter:

Individual Owner—Repealed.

Owner—Repealed.

Owner or Operator—individual or juridical entity exercising direct or indirect control over a licensed entity. For licensing purposes the following are considered owners:

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

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

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

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

Ownership—Repealed.

a. - b. ...

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

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

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:477 and R.S. 46:1401 et seq.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Community Service, LR 36:805 (April 2010), amended by the Department of Children and Family Services, Division of Programs, Licensing Section, LR 38:976 (April 2012), LR 42:220 (February 2016), amended by the Department of Children and Family Services, Licensing Section, LR 43:246 (February 2017), amended by the Department of Children and Family Services, Licensing Section, LR 45:519 (April 2019), effective May 1, 2019.

§7107. Licensing Requirements

A. - A.4. ...

5. Owners shall have a fingerprint based criminal background check from the Louisiana State Police on file with the residential home in accordance with R.S. 46:51.2

and 15:587.1. If an individual has previously obtained a certified copy of their criminal background check from the Louisiana State Police, such certified copy shall be acceptable as meeting the CBC requirements. If an owner obtains a certified copy of their criminal background check from the Louisiana State Police, this criminal background check shall be accepted for a period of one year from the date of issuance of the certified copy. This certified copy shall be kept on file at the facility. Prior to the one-year expiration of the certified criminal background check, a new fingerprint-based satisfactory criminal background check shall be obtained from Louisiana State Police. If the clearance is not obtained prior to the one-year expiration of the certified criminal background check, the owner is no longer allowed on the premises until a clearance is received.

a. This check shall be obtained prior to the license being issued, the addition of a board member who meets the definition of an owner, an individual being present on the premises, or an individual having access to children/youth.

b. No person shall own, operate, or participate in the management or governance of a residential home until such person has submitted his or her fingerprints to Louisiana State Police and it has been determined that such person has not been convicted of, or pled guilty or nolo contendere to any crime listed in R.S. 15:587.1(C).

c. No person who has been convicted of, or pled guilty or nolo contendere to any offense included in R.S. 15:587.1(C), shall own, operate, or participate in the management or governance of a residential home.

d. Any owner or operator who is convicted of, or pled guilty or nolo contendere to any crime listed in R.S. 15:587.1(C) shall not continue in the management or governance after such conviction, guilty plea, or plea of nolo contendere.

e. Only certified CBCs obtained by the individual for themselves from LSP are transferable from one owner to another owner.

6. The following is a listing of individuals by organizational type who are required to submit documentation of a satisfactory fingerprint-based criminal background clearance from the Louisiana State Police:

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

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

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

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

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

8. Effective May 1, 2019, CBCs/attestation forms shall be dated no earlier than 45 days prior to the initial application being received by the Licensing Section, or the individual being present on the premises, or having access to children/youth.

9. Documentation of a state central registry clearance as required in §7112.

10. Providers and staff shall not permit an individual convicted of a sex offense as defined in R.S. 15:541 to have physical access to a residential home as defined in R.S. 46:1403.

11. The owner or program director of a residential home shall be required to call and notify law enforcement personnel and the Licensing Section management staff if they have knowledge that a registered sex offender is on the premises of the residential home. The verbal report shall be followed by a written report to the Licensing Section within 24 hours.

12. The owner or director of a residential home shall be required to call and notify law enforcement personnel if they have knowledge that a registered sex offender is within 1,000 feet of the residential home as required by R.S. 14:91.1. The verbal report shall be followed by a written report to the Licensing Section within 24 hours.

13. Providers with live-in staff may allow children of staff members to reside with their parents in the private staff quarters of the residential home.

14. Provider nor staff shall permit a resident, age 18 years or older, that has been convicted of, pled guilty, or nolo contendere to any offense listed in R.S. 15:587.1. or to any offense involving a juvenile victim to remain on the premises of the residential home.

B. - B.2.p. ...

q. documentation of a state central registry clearance as required in §7112;

B.2.r. - E.2.f. ...

g. copy of current state central registry clearance forms for all owners and program directors/administrators.

E.3. - F.1.b.xvi. ...

xvii. documentation of a state central registry clearance as required in §7112;

1.xviii. - 3.xvi. ...

xvii. documentation of a state central registry clearances for all owners and staff as required in §7112;

F.3.xviii - G.1.c. ...

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

e. - m. ...

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

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

G.1.p. - L.6. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:477, R.S.46:1401 et seq., and R.S. 46:1414.1.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Community Services, LR 36:807 (April 2010), amended LR 36:843 (April 2010), amended by the Department of Children and Family Services, Child Welfare Section, LR 36:1463 (July 2010), amended by the Department of Children and Family Services, Division of Programs, Licensing Section, LR 38:977, 984 (April 2012), amended by the Department of Children and Family Services, Licensing Section, LR 43:249 (February 2017), LR 43:1725 (September 2017), amended by the Department of Children and Family Services, Licensing Section, LR 45:519 (April 2019), effective May 1, 2019.

§7109. Critical Violations/Fines

A. - A.1. ...

2. §7111.A.9.a.i-v, vii, ix, or x—staffing ratios;

3. §7117.F.19—motor vehicle checks;

4. §7111.D.1.a if sections noted in §7111.D.7. also cited or §7111.D.1.b.i. if sections noted in §7111.D.7 also cited or §7111.D.2.—critical incident reporting; and/or

5. §7111.A.9.a.vi, §7111.A.9.a.xi, §7111.A.9.a.xiii-xv, §7111.A.4.c, §7123.B.5, or §7123.B.6—supervision.

B. - E.1.e. ...

f. If the provider exceeds staffing ratios by more than one resident, increase the fine by \$25.

g. If the provider failed to meet staffing ratios related to children of residents, increase the fine by \$25.

h. If the provider self-reported the incident which caused the critical violation to be cited, decrease the fine by \$25.

i. If the provider failed to self-report the incident which caused the critical violation to be cited, increase the fine by \$25.

j. If a critical violation for supervision was cited due to residents or children of residents being unsupervised in a vehicle, increase the fine by \$25.

k. If a critical violation for supervision was cited due to staff not knowing the whereabouts of residents to which they are assigned, increase the fine by \$25.

F. - H.4. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1401 et seq.

HISTORICAL NOTE: Promulgated by the Department of Children and Family Services, Licensing Section, LR 43:258

(February 2017), amended LR 43:1725 (September 2017), amended by the Department of Children and Family Services, Licensing Section, LR 45:521 (April 2019), effective May 1, 2019.

§7111. Provider Requirements

A. - A.2.c.ii. ...

iii. have a state central registry notification form from Child Welfare as required in §7112;

2.c.iv. - 5.b. ...

c. All contractors who are unaccompanied by staff with direct or indirect contact with children/youth shall have documentation of a state central registry clearance as required in §7112.

A.6. - B.2.a.ix. ...

x. state central registry clearance forms as required in §7112.

B.2.b. - J.1. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:477 and R.S. 46:1401 et seq.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Community Service, LR 36:811 (April 2010), amended by the Department of Children and Family Services, Division of Programs, Licensing Section, LR 38:979, 984 (April 2012), LR 42:221 (February 2016), amended by the Department of Children and Family Services, Licensing Section, LR 43:261 (February 2017), LR 43:1725 (September 2017), amended by the Department of Children and Family Services, Licensing Section, LR 45:521 (April 2019), effective May 1, 2019.

§7112. State Central Registry

A. State Central Registry Checks for Owners

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

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

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

3. In accordance with R.S. 46:1414.1, an inquiry of the state central registry for all owners and operators shall be conducted prior to a license being issued or if currently licensed, prior to the addition of a new board member who meets the definition of an owner. The Louisiana state central registry clearance form shall be dated no earlier than 45 days

prior to the license being issued or the addition of a new board member who meets the definition of an owner. For states other than Louisiana, clearance forms shall be dated no earlier than 120 days prior to the license being issued or the addition of a new board member who meets the definition of an owner. No person who is recorded on any state's child abuse and neglect registry with a valid justified (valid) finding of abuse or neglect of a child shall be eligible to own, operate, or participate in the governance of the residential home.

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

4. If an owner/operator resided in another state within the proceeding five years, provider shall request a check and obtain clearance information from that state's child abuse and neglect registry prior to the license being issued or if currently licensed, prior to the addition of a new board member who meets the definition of an owner. No person who is recorded on any state's child abuse and neglect registry with a justified (valid) finding of abuse and/or neglect of a child shall be eligible to own, operate, or participate in the governance of a residential home.

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

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

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

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

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

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

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

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

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

B. State Central Registry Checks for Staff and Volunteers

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

a. Prior to May 1, 2019, all staff (paid, non-paid, and volunteers) were required to have on file a state central registry clearance form from child welfare noting that the staff (paid, non-paid, and volunteers) person is not listed on

the state central registry in accordance with R.S. 46:1414.1. No person who is recorded on any state's child abuse and neglect registry with a valid (justified) finding of abuse and/or neglect shall be eligible for employment in a licensed residential home.

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

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

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

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

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

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

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

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

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

C. State Central Registry Checks for Contractors

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

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

b. Prior to May 1, 2019, all contractors providing services to the residential home were required to have on file

a clearance from any other state's child abuse and neglect registry in which the contractor resided within the preceding five years. No person who is recorded on any state's child abuse and neglect registry with a valid (justified) finding of abuse and/or neglect shall be eligible for employment or provide services in a licensed residential home.

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

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

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

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

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

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

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

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

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

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

D. Reasonable Suspicion

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

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

HISTORICAL NOTE: Promulgated by the Department of Children and Family Services, Licensing Section, LR 45:521 (April 2019), effective May 1, 2019.

Marketa Garner-Walters
Secretary

1904#021

RULE

Board of Elementary and Secondary Education

Bulletin 137—Louisiana Early Learning Center Licensing Regulations—Licensure and Minimum Child-to-Staff Ratios for Type I Centers (LAC 28:CLXI.305 and 1711)

Under the authority granted in R.S. 17:6 and in accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education has amended *Bulletin 137—Louisiana Early Learning Center Licensing Regulations*. The amendments align policy with R.S. 17:407.37, which allows, rather than mandates, a fine of up to \$1000 per day, along with making technical edits. This Rule is hereby adopted on the day of promulgation.

**Title 28
EDUCATION**

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

Chapter 3. Licensure

§305. Operating Without a License; Registry; Penalties

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

B. - D. ...

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

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

Chapter 17. Minimum Staffing Requirements and Standards

§1711. Child-to-Staff Minimum Ratios

A. - E. ...

F. Minimum Child-to-Staff Ratios—Type I Centers

1. - 2. ...

Minimum Child-to-Staff Ratios—Type I Centers (Effective until July 1, 2021)	
Ages of Children	Ratio

G. - N.2.b. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 and 17:407.40(A)(3).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:633 (April 2015), effective July 1, 2015, amended LR 43:638 (April 2017), LR

44:250 (February 2018), effective March 1, 2018, LR 44:1865 (October 2018), LR 45:525 (April 2019).

Shan N. Davis
Executive Director

1904#063

RULE

Board of Elementary and Secondary Education

Bulletin 746—Louisiana Standards for State Certification of School Personnel Teaching Authorizations and Certification (LAC 28:CXXXI.305 and Chapter 7)

Under the authority granted in R.S. 17:6 and in accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education has amended *Bulletin 746—Louisiana Standards for State Certification of School Personnel*. The amendments allow district-level administrators to renew educational leader licenses using local evaluations and also establishes an "operational role" status that allows teachers and school-based administrators serving in operational roles to freeze the validity period of their certificate while serving in such a role. This ensures that the educator certificate will not expire while the educator is serving in a role that is not suited to being evaluated per the standards of effectiveness. The amendments do not affect teacher or school-level leader evaluations. This Rule is hereby adopted on the day of promulgation.

**Title 28
EDUCATION**

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

Chapter 3. Teaching Authorizations and Certifications

Subchapter A. Standard Teaching Authorizations

Editor's Note: The name of the Division of Student Standards and Assessments has been changed to The Division of Student Standards, Assessments, and Accountability.

§305. Professional Level Certificates

A. - D.2.b. ...

E. Non-Practicing Status or Operational Role Status for Level 1, 2, 3 Certificates

1. The LDE may grant:

a. non-practicing status to any teacher who applies within a year of ceasing employment as a teacher or leader in a local education agency. An exception may be made for a teacher or leader who ended employment in a local education agency prior to November 1, 2015 with at least one evaluation rating in 2012-2013, 2013-2014, or 2014-2015.

b. operational role status to any teacher who is serving in a role that cannot be evaluated per student growth measures.

2. Non-practicing status shall take effect on the last day of employment in the local education agency evaluated role, as verified by the employing LEA.

3. Operational role status shall take effect on the first day of employment in a role that cannot be evaluated per student growth measures, as verified by the employing LEA.

4. Operational role teachers returning to a role that can be evaluated per student growth measures must be evaluated with student growth measures upon return of that role.

5. Non-practicing teachers returning to practice and operational role teachers returning to a role that can be evaluated per student growth measures may apply through a local education agency for an extension of their certificate for the number of years remaining in the renewal period of the certificate.

6. Final effectiveness ratings earned while in active status will be retained during non-practicing status and operational role status and applied to any subsequent renewal or extension.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:1797 (October 2006), amended LR 33:433 (March 2007), LR 34:233 (February 2008), LR 34:1611 (August 2008), LR 35:222 (February 2009), LR 37:558 (February 2011), LR 38:1951 (August 2012), LR 40:279 (February 2014), LR 41:2128 (October 2015), LR 43:1304 (July 2017), LR 44:745 (April 2018), LR 45:525 (April 2019).

Chapter 7. Administrative and Supervisory Credentials

Subchapter A. The Educational Leadership Certificate

§705. Educational Leader Certificate Level 1 (EDL 1)

A. - A.5.a. ...

b. Individuals who hold an educational leader add-on endorsement issued prior to July 1, 2012 and are employed in a leadership capacity at the school level will be required to meet the standards of effectiveness pursuant to Bulletin 130 and R.S. 17:3902 for three years out of the five-year renewal period in order to renew their endorsement.

c. Individuals who hold an educational leader add-on endorsement issued prior to July 1, 2012 and are employed in a leadership capacity at the district level will be required to earn effective ratings per local personnel evaluations for three years out of the five-year renewal period in order to renew their endorsement.

6. ...

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:1823 (October 2006), amended LR 33:819 (May 2007), LR 38:43 (January 2012), LR 38:3138 (December 2012), LR 39:1465 (June 2013), LR 43:1313 (July 2017), LR 45:526 (April 2019).

§706. Educational Leader Certificate Level 2 (EDL 2) [Formerly §707]

A. - A.3. ...

4. For individuals who are employed in a leadership capacity at the school level, either meet the standards of effectiveness as an educational leader for three years pursuant to Bulletin 130 and R.S. 17:3902 or receive a waiver of this provision from the LDE, at the request of the employing LEA, if the educational leader was unable to meet the standards of effectiveness any year prior to the 2015-2016 school year due to administrative error in the local implementation of the evaluation system.

5. For individuals who are employed in a leadership capacity at the district level, earn effective ratings per local personnel evaluations for three years.

B. Renewal Requirements. An EDL 2 is valid for five years initially and may be extended thereafter for a period of five years at the request of an LEA. For renewal of EDL 2 certificate, candidates who are employed in a leadership capacity at the school level must successfully meet the standards of effectiveness for at least three years during the five-year initial or renewal period pursuant to Bulletin 130 and R.S. 17:3902. Candidates who are employed in a leadership capacity at the district level must earn effective ratings per local personnel evaluations for at three years during the five-year initial or renewal period.

1. Individuals who hold an educational leader add-on endorsement issued prior to July 1, 2012 and are employed in a leadership capacity at the school level will be required to meet the standards of effectiveness pursuant to Bulletin 130 and R.S. 17:3902 for three years out of the five-year renewal period in order to renew their endorsement.

2. Individuals who hold an educational leader add-on endorsement issued prior to July 1, 2012 and are employed in a leadership capacity at the district level must earn effective ratings per local personnel evaluations for three years out of the five-year renewal period in order to renew their endorsement.

3. LEAs may request a one-time five-year renewal of the certificate, if the educational leader employed in a leadership capacity at the school level was unable to successfully meet the standards of effectiveness any year prior to the 2015-2016 school year due to administrative error in the local implementation of the evaluation system.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:1823LR (October 2006), amended LR 33:820 (May 2007), LR 38:43 (January 2012), LR 38:3138 (December 2012), LR 39:1465 (June 2013), LR 41:2129 (October 2015), LR 45:526 (April 2019).

§708. Educational Leader Certificate Level 3 (EDL 3) [Formerly §709]

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

2. **Renewal Requirements.** An EDL 3 is valid for five years initially and may be extended thereafter for a period of five years at the request of an LEA. For renewal of an EDL 3 certificate, candidates who are employed in a leadership capacity at the school level must successfully meet the standards of effectiveness for at least three years during the five-year initial or renewal period pursuant to Bulletin 130 and R.S. 17:3902. Candidates who are employed in a leadership capacity at the district level must earn effective ratings per local personnel evaluations for at three years during the five-year initial or renewal period.

3. Individuals who hold an educational leader add-on endorsement issued prior to July 1, 2012 and are employed in a leadership capacity will be required to meet the standards of effectiveness pursuant to Bulletin 130 and R.S. 17:3902 for three years out of the five-year renewal period in order to renew their endorsement.

4. Individuals who hold an educational leader add-on endorsement issued prior to July 1, 2012 and are employed in a leadership capacity at the district level will be required

to earn effective ratings per local personnel evaluations for three years out of the five-year renewal period in order to renew their endorsement.

5. LEAs may request a one-time five-year renewal of the certificate if the educational leader was unable to successfully meet the standards of effectiveness any year prior to the 2015-2016 school year due to administrative error in the local implementation of the evaluation system.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:1824 (October 2006), amended LR 38:3139 (December 2012), LR 41:2129 (October 2015), LR 45:526 (April 2019).

§709. Non-Practicing Status for Educational Leader Certificates

A. ...

B. Non-practicing educational leaders returning to practice may apply through a local education agency for an extension of their certificate for the number of years they were not practicing, not to exceed five years.

C. ...

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:2129 (October 2015), amended LR 45:527 (April 2019).

Subchapter B. Out-of-State Administrative Certification Structure

§723. Out-of-State Principal Level 2 (OSP2)

A. - A.1.c. ...

d. Individuals who are employed in a leadership capacity at the school level successfully meeting the standards of effectiveness as an educational leader during the validity period of the OSP1 certificate. Individuals who are employed in a leadership capacity at the district level must earn effective ratings per local personnel evaluations for at three years during the five-year initial or renewal period.

2. Renewal Requirements. For renewal of OSP2 certificate, candidates who are employed in a leadership capacity at the school level must successfully meet the standards of effectiveness for at least three years during the five-year initial or renewal period pursuant to Bulletin 130 and R.S. 17:3902. Individuals who are employed in a leadership capacity at the district level must earn effective ratings per local personnel evaluations for at three years during the five-year initial or renewal period.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:1825 (October 2006), amended LR 35:2325 (November 2009), LR 36:882 (March 2011), LR 38:43 (January 2012), LR 38:3139 (December 2012), LR 39:1466 (June 2013), LR 45:527 (April 2019).

§725. Out-of-State Superintendent (OSS)

A. - A.1.e. ...

2. Renewal Requirements. For renewal of an OSS certificate, candidates who are employed in a leadership capacity at the school level must successfully meet the standards of effectiveness for at least three years during the five-year initial or renewal period pursuant to Bulletin 130

and R.S. 17:3902. Individuals who are employed in a leadership capacity at the district level must earn effective ratings per local personnel evaluations for at three years during the five-year initial or renewal period.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:1825 (October 2006), amended LR 38:3140 (December 2012), LR 45:527 (April 2019).

Shan N. Davis
Executive Director

1904064

RULE

Board of Elementary and Secondary Education

Bulletin 1530—Louisiana's IEP Handbook for Students with Exceptionalities—Statewide Assessments (LAC 28:XCVII.503 and 505)

Under the authority granted in R.S. 17:6 and in accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education has amended *Bulletin 1530—Louisiana's IEP Handbook for Students with Exceptionalities*. The amendments ensure an alternate assessment is reserved for students with the most significant cognitive disabilities, as required by ESSA, by:

- deleting policy language allowing students to participate in the alternate assessment based on deficits in adaptive functioning alone;
- establishing a transition period for graduation pathways of current high school and eighth grade students;
- incorporating language from the most recent federal regulations; and
- providing technical edits including references to outdated assessments and standards.

This Rule is hereby adopted on the day of promulgation.

Title 28

EDUCATION

Part XCVII. Bulletin 1530—Louisiana's IEP Handbook for Students with Exceptionalities

Chapter 5. Participation in Statewide Assessments

§503. Types of Alternate Assessments

A. LEAP alternate assessment, level 1 (LAA 1), was developed for students with disabilities who are served under IDEA for whom there is evidence that the student has a significant cognitive disability. LAA 1 is a performance-based assessment designed for students whose instructional program is aligned with the Louisiana extended standards.

B. - B.1. Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 35:2343 (November 2009), amended LR 41:535 (March 2015), LR 45:527 (April 2019).

§505. Alternate Assessment Participation Criteria

A. LEAP Alternate Assessment (Alternate Assessment). To be eligible to participate in the LEAP Alternate Assessment (alternate assessment), the IEP team must verify

the student (in grades 3-11) meets the criteria listed in this subsection.

1. For students entering a high school cohort on or before the 2019-2020 school year, the student has a disability that significantly impacts cognitive function and/or adaptive behavior. This may be demonstrated in the following ways.

a. For students who have not completed the fifth grade, an eligible student is functioning three or more standard deviations below the mean in cognitive functioning and/or adaptive behavior.

b. For students who have completed fifth grade, an eligible student is functioning 2.3 or more standard deviations below the mean in cognitive functioning and/or adaptive behavior.

c. Students who have completed the fifth grade functioning between 2.0 and 2.29 or more standard deviations below the mean in cognitive functioning and/or adaptive behavior may be eligible for alternate assessment participation if the IEP team provides additional empirical evidence an alternate assessment identification is appropriate for the student.

2. For students entering a high school cohort during the 2020-2021 school year and beyond, the student has a disability that significantly impacts cognitive function. This may be demonstrated in the following ways.

a. For students who have not completed the fifth grade, an eligible student is functioning three or more standard deviations below the mean in cognitive functioning.

b. For students who have not completed the fifth grade, an eligible student is functioning 2.3 or more standard deviations below the mean in cognitive functioning.

c. Students who have completed the fifth grade functioning between 2.0 and 2.29 or more standard deviations below the mean in cognitive functioning and with deficits in adaptive behavior may be eligible for alternate assessment participation if the IEP team provides additional empirical evidence an alternate assessment identification is appropriate for the student.

3. The student requires direct individualized instruction and substantial supports to achieve measurable gains on the challenging state academic content standards for the grade in which the student is enrolled.

4. The decision to include the student in an alternate assessment is not solely based on the following:

- a. student's educational placement;
- b. excessive or extended absences;
- c. disruptive behavior;
- d. English language proficiency;
- e. student's reading or academic level;
- f. student's disability according to Bulletin 1508;
- g. social, cultural, and/or economic differences;
- h. anticipated impact on school performance scores;
- i. administrative decision;
- j. expectation that the student will not perform well on the LEAP 2025 or other statewide assessments; or
- k. the student's previous need for accommodation(s) to participate in general state or district-wide assessments.

B. - B.4.j. Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 35:2343 (November 2009), amended LR 37:886 (March 2011), LR 41:535 (March 2015), LR 45:527 (April 2019).

Shan N. Davis
Executive Director

1904#065

RULE

Board of Regents

Licensure of Degree Granting Institutions
(LAC 28:IX.Chapters 1 and 3)

The Louisiana Board of Regents has amended its rules for Registration and Licensure and Criteria and Requirements for Licensure (R.S. 17:1808) of academic degree granting institutions. This Rule is hereby adopted on the day of promulgation.

Title 28

EDUCATION

Part IX. Regents

Chapter 1. Rules and Registration for Licensure §103. Registration and License Applications

A. All public and private postsecondary, academic degree-granting institutions offering instruction in the state of Louisiana must register annually with the Board of Regents. Regular licenses are reviewed every two years. Requests for registration forms and license applications are available at www.regents.la.gov.

B. Completed registration forms and license applications should be returned to:

Louisiana Board of Regents
Planning, Research, Performance and Academic Affairs-
Licensure
P.O. Box 3677
Baton Rouge, Louisiana 70821-3677

C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1808.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Regents, LR 19:1551 (December 1993), amended LR 21:168 (February 1995), LR 36:2839 (December 2010), LR 39:84 (January 2013), LR 45:528 (April 2019).

§105. License Fees

A. All license applications must be accompanied by a non-refundable fee of \$1,500.00 (approved by Louisiana Legislature Act 278 of the 2012 Regular Legislative Session). The license application fee must be paid by company or institutional check or by money order, and should be made payable to the Louisiana Board of Regents. Any institution granted a license to operate will be required to pay an additional \$1,500.00 at the start of the second year of the two-year licensing period. License renewal fees are required during each subsequent two-year licensing period and are non-refundable. However, the initial license application fee may be reduced to \$200 for those institutions seeking initial licensure in order to allow clinical practicum experiences for fewer than five Louisiana residents enrolled in nursing and other health-related programs only. In order to continue and renew their licenses, those institutions will be required to pay all subsequent fees, including renewal

fees. License renewal fees are required during each subsequent two-year licensing period and are nonrefundable.

B. ...

C. The Board of Regents may authorize assessment of special or supplemental fees to be paid by institutions seeking licensure pursuant to special actions or requests.

D. Institutions seeking licensure shall submit all required materials and the nonrefundable license fee to the Board of Regents. If a final determination concerning the institution's qualifications for licensure is not reached within 180 days of receipt of the license application and all supporting materials, a provisional license will be issued to the institution. The provisional license will remain in effect pending a final licensing decision by the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1808.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Regents, LR 19:1551 (December 1993), amended LR 21:168 (February 1995), LR 36:2839 (December 2010), LR 39:84 (January 2013), LR 45:528 (April 2019).

§107. Information Requirements for Registration¹

A. All postsecondary, academic degree-granting institutions are required to provide the following information on an annual basis:

1. - 8. ...

9. information relative to the institution's accreditation or official candidacy status from a regional, national or professional accrediting agency recognized by the United States Department of Education;

10. ...

¹Registration with the Board of Regents shall in no way constitute state approval or accreditation of any institution and shall not be used in any form of advertisement by any institution.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1808.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Regents, LR 19:1551 (December 1993), amended LR 45:529 (April 2019).

Chapter 3. Criteria and Requirements for Licensure

§302. Institutional Accreditation

A. Institutions must hold accreditation through an association recognized by the U.S. Department of Education. Institutions domiciled outside the state of Louisiana must be fully accredited by an accrediting body recognized by the U.S. Department of Education prior to making an application for licensure with the Board of Regents. Existing institutions domiciled in the state of Louisiana must hold recognized accreditation. New institutions must make formal application and obtain accreditation from a U.S. Department of Education recognized accrediting association by date certain as a requirement for licensure.

B. ...

C. The Board of Regents will consider a waiver of the accreditation requirement in the case of single purpose institutions. This consideration will be given only in extraordinary circumstances where the board determines that it would be educationally impractical for an institution to reorganize its programs and operations in order to become eligible for consideration by a U.S. Department of Education recognized accrediting association.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1808.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Regents, LR 21:168 (February 1995), amended LR 36:2840 (December 2010), LR 45:529 (April 2019).

§305. Academic Program Standards

A. - E. ...

F. Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1808.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Regents, LR 19:1552 (December 1993), amended LR 21:169 (February 1995), LR 36:2840 (December 2010), LR 38:1228 (May 2012), LR 45:529 (April 2019).

§307. Physical Plant Standards

A. Library

1. Depending on the delivery method of instruction, (online, hybrid, brick and mortar), the institution shall maintain and/or provide student access to an appropriate library collection with adequate support staff, services, and equipment. Any contractual agreements with libraries not directly affiliated with the institution shall be available in writing to the Board of Regents.

B. Facilities and Equipment

1. The institution shall maintain or provide access to appropriate administrative, classroom, and laboratory space, and appropriate equipment and instructional materials to support quality education based on the type, level, and delivery method of program being offered. Facilities must comply with all health and safety laws and ordinances.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1808.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Regents, LR 19:1552 (December 1993), amended LR 21:169 (February 1995), LR 38:1228 (May 2012), LR 45:529 (April 2019).

§309. Financial Operations

A. - B. ...

C. All institutions shall provide the Board of Regents with a financial review prepared in accordance with standards established by the American Institute of Certified Public Accountants. However, an institution accredited by an agency recognized by the United States Department of Education may, at its discretion, submit financial statements prepared in accordance with rules and guidelines established by the accrediting agency.

D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1808.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Regents, LR 19:1553 (December 1993), amended LR 45:529 (April 2019).

§311. Maintenance of Records

A. - B. ...

C. Individual student records must include:

1. - 4. ...

5. a payment schedule which includes the total cost to the student.

6. - 8. Repealed.

D. Student records must also include:

1. - 2. ...

3. counseling records;

4. a transcript;

5. financial aid records.

E. ...

F. All licensed institutions are required to have a plan for the maintenance, safekeeping and retention of student records in the event of an institutional closure. The plan must contain the arrangements made by the institution and procedures students must follow in order to obtain their records.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1808.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Regents, LR 19:1553 (December 1993), amended LR 21:169 (February 1995), LR 45:529 (April 2019).

§313. Student Services¹

A. Institutions shall provide appropriate orientation and counseling services throughout enrollment. Special services including financial aid, employment placement for graduates, and student housing, if appropriate, must be evaluated periodically by the institution to determine effectiveness in meeting student needs and contribution to the educational purpose of the institution.

¹The Board of Regents recommends that prospective students seek independent job/career counseling prior to enrollment in an academic degree-granting postsecondary institution and encourages such institutions to promote this recommendation.

AUTHORITY NOTE: Promulgated in accordance with 17:1808.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Regents, LR 19:1553 (December 1993), amended LR 45:530 (April 2019).

§317. Procedures for Tuition and Fee Refunds

A. Pricing and Refund Policy

1. - 3. ...

4. Institutions are required to follow the minimum standards for tuition refunds as set forth herein. These guidelines are:

a. - c.ii. ...

iii. students withdrawing from day 25 through the end of the quarter, semester, or similar time period may be ineligible to receive a refund;

d. - e. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1808.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Regents, LR 19:1553 (December 1993), amended LR 21:169 (February 1995), LR 36:2840 (December 2010), LR 45:530 (April 2019).

§319. Surety Bonding

A. New Louisiana domiciled unaccredited institutions are required to post a surety bond issued by a surety authorized to do business in the state of Louisiana in the amount of \$10,000 to cover the period of the license. These bonds are intended to protect students in the event of a sudden closure of the institution. Institutions that are also licensed and bonded under provisions set forth by R.S. 17:-3141 et seq., need not seek additional bonding.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1808.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Regents, LR 19:1554 (December 1993), amended LR 36:2840 (December 2010), LR 45:530 (April 2019).

§327. Licensure Denial

A. Any institution denied licensure by the Board of Regents that wishes to seek reconsideration by the Board is

required to wait a minimum of 24 months before resubmitting its license application.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1808.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Regents, LR 21:170 (February 1995), amended LR 45:530 (April 2019).

Larry Tremblay
Deputy Commissioner

1904#006

RULE

**Board of Regents
Office of Student Financial Assistance**

Scholarship/Grant Programs Chafee Educational and Training Voucher Program (LAC 28:IV.1805 and 1813)

The Louisiana Board of Regents has amended rules of the Scholarship/Grant programs [R.S. 17:3021-3025, R.S. 3041.10-3041.15, R.S. 17:3042.1.1-3042.8, R.S. 17:5001 et seq., and R.S. 56:797.D(2)]. This Rule is hereby adopted on the day of promulgation. (SG19184R)

Title 28

EDUCATION

**Part IV. Student Financial Assistance—Higher
Education Scholarship and Grant Programs**

**Chapter 18. Chafee Educational and Training
Voucher Program**

§1805. Eligibility

A. To establish eligibility through the 2017-2018 academic year, a student must:

1. be ages 16 to 21, except that a student who was participating in the Chafee ETV Program at age 21 may continue to receive ETVs until he attains the age of 23; and

2. be in the foster care system, or aged out of the foster care system, or was under legal guardianship, or was in the foster care system or under legal guardianship and was adopted after age 16; and

3. be enrolled in postsecondary education; and

4. annually complete the free application for federal student aid.

B. To establish eligibility beginning in the 2018-2019 academic year, a student must:

1. be ages 14 to 26;

2. be in the foster care system, aged out of the foster care system, exited the foster care system through legal guardianship or adoption after attaining the age of 16, or was in the foster care system after the age of 14 and exited for reasons other than adoption, guardianship, or aging out; and

3. be enrolled in postsecondary education; and

4. annually complete the free application for federal student aid.

C. To continue to receive Chafee ETV through the 2017-2018 academic year, a student must:

1. not have attained the age of 21, or the age of 23 if the student was receiving a Chafee ETV at the age of 21 and received the Chafee ETV continuously; and

2. be making satisfactory academic progress in his program of study.

D. To continue to receive Chafee ETV beginning in the 2018-2019 academic year, a student must:

1. not have attained the age of 26; and
2. be enrolled in postsecondary education; and
3. not have participated in the program for more than five years, whether or not consecutively; and
4. be making satisfactory academic progress in his program of study.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3031 and R.S. 17:3129.7.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 36:2548 (November 2010), amended LR 40:52 (January 2014), amended by the Board of Regents, Office of Student Financial Assistance, LR 44:555 (March 2018), LR 45:530 (April 2019).

§1813. Responsibilities of the Louisiana Department of Children and Family Services (DCFS)

A. Through the 2017-2018 academic year, DCFS shall verify that a student:

1. was in the foster care system, or aged out of the foster care system; or
2. was under legal guardianship; or
3. was in the foster care system or under legal guardianship and was adopted after age 16; or
4. is a Native American whose Indian tribe has an approved plan under Title IV-E of the Social Security Act for foster care, adoption assistance, and kinship guardianship within that Indian tribe.

B. Beginning in the 2018-2019 academic year, DCFS shall verify that a student:

1. be in the foster care system, aged out of the foster care system, exited the foster care system through legal guardianship or adoption after attaining the age of 16, or was in the foster care system after the age of 14 and exited for reasons other than adoption, guardianship, or aging out; or
2. is a Native American whose Indian tribe has an approved plan under Title IV-E of the Social Security Act for foster care, adoption assistance, and kinship guardianship within that Indian tribe.

C. DCFS will notify LOSFA of any students who are eligible to receive a Chafee ETV and for whom LOSFA did not previously request verification in accordance with §1817.A, including those students who may be attending school in a state other than Louisiana.

D. In the event of receipt of notice of a shortfall and additional funds are not allocated for payment of all anticipated awards for subsequent semesters, terms and sessions during the academic year, DCFS shall develop, approve and deliver a plan to LOSFA to address the shortfall.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3031 and R.S. 17:3129.7.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 36:2549 (November 2010), amended by the Board of Regents, Office of Student Financial Assistance, LR 44:556 (March 2018), LR 45:531 (April 2019).

Robyn Rhea Lively
Senior Attorney

1904#015

RULE

**Office of the Governor
Division of Administration
Tax Commission**

Ad Valorem Taxation
(LAC 61:V.101, 113, Chapter 3, 703, 907, 1103, 1307, 1503, 2503, Chapter 31 and 3501)

In accordance with provisions of the Administrative Procedure Act (R.S. 49:950 et seq.), and in compliance with statutory law administered by this agency as set forth in R.S. 47:1837, the Tax Commission has adopted, amended and/or repealed sections of the Louisiana Tax Commission real/personal property rules and regulations for use in the 2019 (2020 Orleans Parish) tax year. This Rule is hereby adopted on the day of promulgation.

Title 61

REVENUE AND TAXATION

Part V. Ad Valorem Taxation

Chapter 1. Constitutional and Statutory Guides to Property Taxation

§101. Constitutional Principles for Property Taxation

A. - F.3.h. ...

G. Special Assessment Level

1. - 1.d....

2. Any person or persons shall be prohibited from receiving the special assessment as provided in this Section if such person's or persons' adjusted gross income, for the year prior to the application for the special assessment, exceeds \$75,594 for tax year 2019 (2020 Orleans Parish). For persons applying for the special assessment whose filing status is married filing separately, the adjusted gross income for purposes of this Section shall be determined by combining the adjusted gross income on both federal tax returns.

3. - 9. ...

AUTHORITY NOTE: Promulgated in accordance with the Louisiana Constitution of 1974, Article VII, §18.

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, Tax Commission, LR 8:102 (February 1982), amended LR 15:1097 (December 1989), amended by the Department of Revenue, Tax Commission, LR 24:477 (March 1998), LR 26:506 (March 2000), LR 31:700 (March 2005), LR 32:425 (March 2006), LR 33:489 (March 2007), LR 34:673 (April 2008), LR 35:492 (March 2009), LR 36:765 (April 2010), amended by the Division of Administration, Tax Commission, LR 37:1394 (May 2011), LR 38:799 (March 2012), LR 39:487 (March 2013), LR 40:528 (March 2014), LR 41:671 (April 2015), LR 42:744 (May 2016), LR 43:648 (April 2017), LR 44:577 (March 2018), LR 45:531 (April 2019).

§113. Assessments: General Information

A. Assessment Date. Assessments shall be made on the basis of the condition of things existing on the first day of January of each year (R.S. 47:1952). For purposes of determining exemptions in Orleans Parish, the status of property as of August 1 of each year shall be determinative.

B. Domicile. All property subject to taxation, including merchandise or stock in trade, shall be placed upon the

assessment lists in the respective parishes or districts where situated. Personal property other than aircraft (§1501.A.4.), drilling rigs (§1101.B.), leased equipment (§2101.A.), watercraft (§701.A.), and public service property (La. R.S. 47:1855) acquires a situs at the domicile of the holder or owner, but tangible personal property used in business operations in any other taxing district is to be taxed where situated on January 1.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1952.

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, Tax Commission, LR 8:102 (February 1982), amended LR 10:921 (November 1984), LR 15:1097 (December 1989), LR 16:1063 (December 1990), amended by the Department of Revenue, Tax Commission, LR 34:677 (April 2008), LR 45:531 (April 2019).

Chapter 3. Real and Personal Property

§303. Real Property

A. - C.6. ...

D. The Louisiana Tax Commission has ordered all property to be reappraised for the 2016 tax year in all parishes. All property is to be valued as of January 1, 2015.

1. The Louisiana Tax Commission has ordered all property to be reappraised for the 2020 tax year in all

parishes. Beginning in tax year 2020, all real property is to be valued as of January 1, 2019.

E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1837 and R.S. 47:2323.

HISTORICAL NOTE: Promulgated by the Louisiana Tax Commission, LR 7:44 (February 1981), amended by the Department of Revenue and Taxation, Tax Commission, LR 9:69 (February 1983), LR 12:36 (January 1986), LR 13:764 (December 1987), LR 16:1063 (December 1990), LR 17:611 (June 1991), LR 21:186 (February 1995), amended by the Department of Revenue, Tax Commission, LR 25:312 (February 1999), LR 26:506 (March 2000), LR 29:367 (March 2003), LR 30:487 (March 2004), LR 34:678 (April 2008), LR 35:492 (March 2009), LR 36:765 (April 2010), amended by the Division of Administration, Tax Commission, LR 38:799 (March 2012), LR 39:487 (March 2013), LR 42:745 (May 2016), LR 43:650 (April 2017), LR 44:577 (March 2018), LR 45:532 (April 2019).

§304. Electronic Change Order Specifications, Property Classifications Standards and Electronic Tax Roll Export Specifications

A. Electronic Change Order Specifications

* * *

B. Property Classification Standards

Class Code	Class Description (TC-33)	Sub-Class Code	Sub-Class Description (Grand Recap)	Class Definition
Real Estate				
* * *	* * *	* * *	* * *	* * *
40	Improvements For Residential Purposes	4000	Single Family Residence	Single Family Residence (Free standing structure or improvement) including decks, patios, pavement, swimming pools, hot tubs (Jacuzzi), gazebos, etc.
* * *	* * *	* * *	* * *	* * *

C. Electronic Tax Roll Export Specifications

* * *

Assessment Information (Assmt.txt) (Required)				
Field Name	Field Type	Field Length	Required	Comments
* * *	* * *	* * *	* * *	* * *
assessment_status	Character	2	Yes	“AC” = Active, “AJ” = Adjudicated, “EX” = Exempt/Tax Free, “IE” = Industrial Exemption, “RS” = Restoration and “OT” = Other
* * *	* * *	* * *	* * *	* * *

Assessment Value Information (Avalue.txt) (Required)				
Field Name	Field Type	Field Length	Required	Comments
* * *	* * *	* * *	* * *	* * *
homestead_credit	Numeric	6	Yes	Assessed value to be credited by Homestead Exemption.
* * *	* * *	* * *	* * *	* * *

Assessment Millage Information (Amillage.txt) (Required)				
Field Name	Field Type	Field Length	Required	Comments
* * *	* * *	* * *	* * *	* * *
millage	Numeric	7.3	Yes	Millage (Format: 999.99)
* * *	* * *	* * *	* * *	* * *

Millage Group Information (Tgroup.txt) (Required)				
Field Name	Field Type	Field Length	Required	Comments
***	***	***	***	***
millage	Numeric	7.3	Yes	Millage (Format: 999.99)
***	***	***	***	***

Improvement Information (Improve.txt) (Required)				
Field Name	Field Type	Field Length	Required	Comments
***	***	***	***	***
imp_tsqft	Numeric	10.2	No	Square footage of all structures assessed. (Format: 999999.99)
***	***	***	***	***

Tax Exemption Program Information (TEP.txt)				
Field Name	Field Type	Field Length	Required	Comments
tax_year	Numeric	4	Yes	Tax year submitting (ex. 2017, 2018)
fips_code	Numeric	5	Yes	Parish FIPS code
assessment_no	Character	20	Yes	Assessment number.
business_name	Character	50	Yes	Business named on the contract
contract_no	Character	20	Yes	Contract number
contract_start_date	Character	10	No	Date contract started (Format: 01/01/1999)
contract_end_date	Character	10	No	Date contract ends (Format: 01/01/1999)
contract_status_type	Character	2	Yes	“IE” = Industrial Exemption, “RS” = Restoration
original_contract_amt	Numeric	12	Yes	Value of the original contract
revised_contract_amt	Numeric	12	No	Current value of contract, if revisions have been made
exemption_percent	Numeric	3	Yes	Default is 100%
fair_market_value	Numeric	12	Yes	Fair Market Value
assessed_value	Numeric	12	Yes	Total assessed value of the property (based on assessment level)
exempt_taxes	Numeric	12	Yes	Total tax amount subject to exemption/abatement

AUTHORITY NOTE: Promulgated in accordance with the Louisiana Constitution of 1974, Article VII, §18 and R.S. 47:1837.

HISTORICAL NOTE: Promulgated by the Department of Revenue, Tax Commission, LR 31:703 (March 2005), amended LR 32:427 (March 2006), LR 36:765 (April 2010), amended by the Division of Administration, Tax Commission, LR 38:799 (March 2012), LR 39:487 (March 2013), LR 40:529 (March 2014), LR 41:672 (April 2015), LR 42:745 (May 2016), LR 43:651 (April 2017), LR 44:578 (March 2018), LR 45:532 (April 2019).

§307. Personal Property Report Forma

The appropriate self-reporting Personal Property Report Form, is to be forwarded each year, on or before February 15 in the year in which the property is to be appraised, to each person in whose name the property is assessed. Upon completion, the property owner shall return the form to the assessor by the first day of April of that year or 45 days after receipt, whichever is later. Before the close of the open roll inspection period, the property owner shall also submit to the assessor, or the designee contracted by the assessor, any and all additional documentation and information the property owner believes is relevant to the determination of fair market value of the reported property.

A.1. - B.3. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1837, R.S. 47:2324 and R.S. 47:2326.

HISTORICAL NOTE: Promulgated by the Tax Commission, LR 2:358 (November 1976), amended by the Department of Revenue and Taxation, Tax Commission, LR 8:102 (February 1982), LR 13:764 (December 1987), LR 16:1063 (December 1990), LR 21:186 (February 1995), amended by the Department of Revenue, Tax Commission, LR 33:489 (March 2007), LR 45:533 (April 2019).

Chapter 7. Watercraft

§703. Tables—Watercraft

A. Floating Equipment—Motor Vessels

Table 703.A Floating Equipment—Motor Vessels				
Cost Index (Average)		Average Economic Life 12 Years		
Year	Index	Effective Age	Percent Good	Composite Multiplier
2018	0.982	1	94	.92
2017	1.016	2	87	.88
2016	1.036	3	80	.83

Table 703.A Floating Equipment—Motor Vessels				
Cost Index (Average)		Average Economic Life 12 Years		
2015	1.028	4	73	.75
2014	1.038	5	66	.69
2013	1.051	6	58	.61
2012	1.060	7	50	.53
2011	1.090	8	43	.47
2010	1.124	9	36	.40
2009	1.115	10	29	.32
2008	1.148	11	24	.28
2007	1.193	12	22	.26
2006	1.258	13	20	.25

B. Floating Equipment—Barges (Non-Motorized)

Table 703.B Floating Equipment—Barges (Non-Motorized)				
Cost Index Average		Average Economic Life 20 Years		
Year	Index	Effective Age	Percent Good	Composite Multiplier
2018	0.982	1	97	.95
2017	1.016	2	93	.94
2016	1.036	3	90	.93
2015	1.028	4	86	.88
2014	1.038	5	82	.85
2013	1.051	6	78	.82
2012	1.060	7	74	.78
2011	1.090	8	70	.76
2010	1.124	9	65	.73
2009	1.115	10	60	.67
2008	1.148	11	55	.63
2007	1.193	12	50	.60
2006	1.258	13	45	.57
2005	1.316	14	40	.53
2004	1.416	15	35	.50
2003	1.465	16	31	.45
2002	1.489	17	27	.40
2001	1.498	18	24	.36
2000	1.511	19	22	.33
1999	1.538	20	21	.32
1998	1.543	21	20	.31

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1837 and R.S. 47:2323.

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, Tax Commission, LR 8:102 (February 1982), amended LR 10:924 (November 1984), LR 12:36 (January 1986), LR 13:188 (March 1987), LR 13:764 (December 1987), LR 14:872 (December 1988), LR 15:1097 (December 1989), LR 16:1063 (December 1990), LR 17:1213 (December 1991), LR 19:212 (February 1993), LR 20:198 (February 1994), LR 21:186 (February 1995), LR 22:117 (February 1996), LR 23:204 (February 1997), amended by the Department of Revenue, Tax Commission, LR 24:479 (March 1998), LR 25:312 (February 1999), LR 26:506 (March 2000), LR 27:425 (March 2001), LR 28:518 (March 2002), LR 29:368 (March 2003), LR 30:487 (March 2004), LR 31:715 (March 2005), LR 32:430 (March 2006), LR 33:490 (March 2007), LR 34:678 (April 2008), LR 35:492 (March 2009), LR 36:772 (April 2010), amended by the Division of Administration, Tax Commission, LR 37:1394 (May 2011), LR 38:802 (March 2012), LR 39:490 (March 2013), LR 40:530 (March 2014), LR 41:673 (April 2015), LR 42:746 (May 2016), LR 43:652 (April 2017), LR 44:579 (March 2018), LR 45:533 (April 2019).

Chapter 9. Oil and Gas Properties
§907. Valuation of Oil, Gas, and Other Wells

A. - A.7. . . .

1. Oil, Gas and Associated Wells; Region 1—North Louisiana

Table 907.A.1 Oil, Gas and Associated Wells; Region 1—North Louisiana				
Producing Depths	Cost—New By Depth, Per Foot		15% of Cost—New By Depth, Per Foot	
	\$ Oil	\$ Gas	\$ Oil	\$ Gas
0-1,249 ft.	40.36	134.85	6.05	20.23
1,250-2,499 ft.	36.44	99.15	5.47	14.87
2,500-3,749 ft.	28.64	65.67	4.30	9.85
3,750-4,999 ft.	39.62	65.44	5.94	9.82
5,000-7,499 ft.	46.59	63.87	6.99	9.58
7,500-9,999 ft.	102.12	86.09	15.32	12.91
10,000-12,499 ft.	297.80	104.43	44.67	15.66
12,500-14,999 ft.	484.32	157.69	72.65	23.65
15,000-17,499 ft.	619.88	179.81	92.98	26.97
17,500-Deeper ft.	N/A	502.97	N/A	75.45

2. Oil, Gas and Associated Wells; Region 2—South Louisiana

Table 907.A.2 Oil, Gas and Associated Wells; Region 2—South Louisiana				
Producing Depths	Cost—New By Depth, Per Foot		15% of Cost—New By Depth, Per Foot	
	\$ Oil	\$ Gas	\$ Oil	\$ Gas
0-1,249 ft.	310.34	133.97	46.55	20.10
1,250-2,499 ft.	107.17	222.66	16.08	33.40
2,500-3,749 ft.	104.65	177.52	15.70	26.63
3,750-4,999 ft.	92.25	142.01	13.84	21.30
5,000-7,499 ft.	126.03	161.32	18.90	24.20
7,500-9,999 ft.	171.92	168.90	25.79	25.34
10,000-12,499 ft.	234.43	220.78	35.16	33.12
12,500-14,999 ft.	307.53	285.62	46.13	42.84
15,000-17,499 ft.	498.14	382.42	74.72	57.36
17,500-19,999 ft.	608.21	541.67	91.23	81.25
20,000-Deeper ft.	324.76	813.23	48.71	121.98

3. Oil, Gas and Associated Wells; Region 3—Offshore State Waters

Table 907.A.3 Oil, Gas and Associated Wells; Region 3—Offshore State Waters*				
Producing Depths	Cost—New By Depth, Per Foot		15% Of Cost—New By Depth, Per Foot	
	\$ Oil	\$ Gas	\$ Oil	\$ Gas
0 -1,249 ft.	N/A	N/A	N/A	N/A
1,250 -2,499 ft.	1,555.68	1,085.06	233.35	162.76
2,500 -3,749 ft.	799.95	833.91	119.99	125.09
3,750 -4,999 ft.	1,141.84	764.65	171.28	114.70
5,000 -7,499 ft.	568.24	708.24	85.24	106.24
7,500 -9,999 ft.	720.41	670.20	108.06	100.53
10,000 -12,499 ft.	815.57	679.34	122.34	101.90
12,500 -14,999 ft.	709.31	661.13	106.40	99.17
15,000 -17,499 ft.	488.88	685.99	73.33	102.90
17,500 -19,999 ft.	243.52	655.82	36.53	98.37
20,000 - Deeper ft.	N/A	1,030.88	N/A	154.63

B. The determination of whether a well is a Region 2 or Region 3 well is ascertained from its onshore/offshore status

as designated on the Permit to Drill or Amended Permit to Drill form (Location of Wells Section), located at the Department of Natural Resources as of January 1 of each tax year. Each assessor is required to confirm the onshore/offshore status of wells located within their parish by referring to the Permit to Drill or Amended Permit to Drill form on file at the Department of Natural Resources.

1. Parishes Considered to be Located in Region I

Table 907.B.1 Parishes Considered to be Located in Region I			
Bienville	DeSoto	Madison	Tensas
Bossier	East Carroll	Morehouse	Union
Caddo	Franklin	Natchitoches	Webster
Caldwell	Grant	Ouachita	West Carroll
Catahoula	Jackson	Red River	Winn
Claiborne	LaSalle	Richland	
Concordia	Lincoln	Sabine	

NOTE: All wells in parishes not listed above are located in Region 2 or Region 3.

2. Serial Number to Percent Good Conversion Chart

Table 907.B.2 Serial Number to Percent Good Conversion Chart			
Year	Beginning Serial Number	Ending Serial Number	20 Year Life Percent Good
2018	250707	Higher	97
2017	249951	250706	93
2016	249476	249950	90
2015	248832	249475	86
2014	247423	248831	82
2013	245849	247422	78
2012	244268	245848	74
2011	242592	244267	70
2010	240636	242591	65
2009	239277	240635	60
2008	236927	239276	55
2007	234780	236926	50
2006	232639	234779	45
2005	230643	232638	40
2004	229010	230642	35
2003	227742	229009	31
2002	226717	227741	27
2001	225352	226716	24
2000	223899	225351	22
1999	222882	223898	21
1998	Lower	222881	20 *
VAR.	900000	Higher	50

*Reflects residual or floor rate.

NOTE: For any serial number categories not listed above, use year well completed to determine appropriate percent good. If spud date is later than year indicated by serial number; or, if serial number is unknown, use spud date to determine appropriate percent good.

C. - C.6. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1837 and R.S. 47:2326.

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, Tax Commission, LR 8:102 (February 1982), amended LR 12:36 (January 1986), LR 13:188 (March 1987), LR 13:764 (December 1987), LR 14:872 (December 1988), LR 15:1097 (December 1989), LR 16:1063 (December 1990), LR 17:1213 (December 1991), LR 19:212 (February 1993), LR 20:198 (February 1994), LR 21:186 (February 1995), LR 22:117 (February 1996), LR 23:205 (February 1997), amended by the Department of

Revenue, Tax Commission, LR 24:480 (March 1998), LR 25:313 (February 1999), LR 26:507 (March 2000), LR 27:425 (March 2001), LR 28:518 (March 2002), LR 29:368 (March 2003), LR 30:488 (March 2004), LR 31:717 (March 2005), LR 32:431 (March 2006), LR 33:492 (March 2007), LR 34:679 (April 2008), LR 35:495 (March 2009), LR 36:773 (April 2010), amended by the Division of Administration, Tax Commission, LR 37:1395 (May 2011), LR 38:803 (March 2012), LR 39:490 (March 2013), LR 40:531 (March 2014), LR 41:673 (April 2015), LR 42:746 (May 2016), LR 43:653 (April 2017), LR 44:580 (March 2018), LR 45:534 (April 2019).

Chapter 11. Drilling Rigs and Related Equipment
§1103. Drilling Rigs and Related Equipment Tables

A. Land Rigs

Table 1103.A Land Rigs		
Depth "0" to 7,000 Feet		
Depth (Ft.)	Fair Market Value	Assessment
	\$	\$
3,000	249,100	37,400
4,000	314,100	47,100
5,000	346,600	52,000
6,000	401,500	60,200
7,000	514,800	77,200
th 8,000 to 10,000 Feet		
Depth (Ft.)	Fair Market Value	Assessment
	\$	\$
8,000	705,900	105,900
9,000	979,800	147,000
10,000	1,329,500	199,400
Depth 11,000 to 15,000 Feet		
Depth (Ft.)	Fair Market Value	Assessment
	\$	\$
11,000	1,738,700	260,800
12,000	2,242,500	336,400
13,000	2,726,800	409,000
14,000	3,189,300	478,400
15,000	3,595,000	539,300
Depth 16,000 to 20,000 Feet		
Depth (Ft.)	Fair Market Value	Assessment
	\$	\$
16,000	3,910,100	586,500
17,000	4,104,400	615,700
18,000	4,153,700	623,100
19,000	4,042,000	606,300
20,000	3,763,900	564,600
Depth 21,000 + Feet		
Depth (Ft.)	Fair Market Value	Assessment
	\$	\$
21,000	3,327,000	499,100
25,000 +	2,754,500	413,200

1. - 2. ...

B. Jack-Ups

Table 1103.B Jack-Ups			
Type	Water Depth Rating	Fair Market Value	Assessment
IC	0-199 FT.	\$ 55,500,000	\$ 8,325,000
	200-299 FT.	111,000,000	16,650,000
	300 FT. and Deeper	221,700,000	33,255,000
IS	0-199 FT.	16,700,000	2,505,000
	200-299 FT.	27,800,000	4,170,000
	300 FT. and Deeper	33,300,000	4,995,000
MC	0-199 FT.	5,600,000	840,000
	200-299 FT.	11,100,000	1,665,000

Table 1103.B Jack-Ups			
Type	Water Depth Rating	Fair Market Value	Assessment
	300 FT. and Deeper	44,400,000	6,660,000
MS	0-249 FT.	11,600,000	1,740,000
	250 FT. and Deeper	22,900,000	3,435,000

IC - Independent Leg Cantilever
 IS - Independent Leg Slot
 MC - Mat Cantilever
 MS - Mat Slot

C. Semisubmersible Rigs

Table 1103.C Semisubmersible Rigs		
Water Depth Rating	Fair Market Value	Assessment
	\$	\$
0- 800 FT.	50,700,000	7,605,000
801-1,800 FT.	90,900,000	13,635,000
1,801-2,500 FT.	166,600,000	24,990,000
2,501FT. and Deeper	522,700,000	78,405,000

NOTE: The fair market values and assessed values indicated by these tables are based on the current market (sales) appraisal approach and not the cost approach.

1. - 3.b.i. ...

D. Well Service Rigs Land Only

Table 1103.D Well Service Rigs Land Only				
Class	Mast	Engine	Fair Market Value (RCNLD)	Assessment
I	71' X 125M# 71' X 150M# 72' X 125M# 72' X 150M# 75' X 150M#	C-7 50 SERIES 6V71	105,000	15,800
II	96' X 150M# 96' X 180M# 96' X 185M# 96' X 200M# 96' X 205M# 96' X 210M# 96' X 212M# 96' X 215M#	C-11 50 SERIES 8V71	145,000	21,800
III	96' X 240M# 96' X 250M# 96' X 260M# 102' X 215M#	C-11 50 SERIES 8V92	185,000	27,800
IV	102' X 224M# 102' X 250M# 103' X 225M# 103' X 250M# 104' X 250M# 105' X 225M# 105' X 250M#	C-15 60 SERIES 12V71	225,000	33,800
V	105' X 280M# 106' X 250M# 108' X 250M# 108' X 260M# 108' X 268M# 108' X 270M# 108' X 300M#	C-15 60 SERIES 12V71 12V92	265,000	39,800
VI	110' X 250M# 110' X 275M# 112' X 300M# 112' X 350M#	C-15 60 SERIES 12V71 (2) 8V92	305,000	45,800

Table 1103.D Well Service Rigs Land Only				
Class	Mast	Engine	Fair Market Value (RCNLD)	Assessment
VII	117' X 215M#	C-15 60 SERIES (2) 8V92 (2) 12V71	335,000	50,300

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

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1837 and R.S. 47:2323.

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, Tax Commission, LR 8:102 (February 1982), amended LR 10:939 (November 1984), LR 12:36 (January 1986), LR 13:188 (March 1987), LR 16:1063 (December 1990), LR 17:1213 (December 1991), LR 22:117 (February 1996), LR 23:205 (February 1997), amended by the Department of Revenue, Tax Commission, LR 24:487 (March 1998), LR 25:315 (February 1999), LR 26:508 (March 2000), LR 27:426 (March 2001), LR 28:519 (March 2002), LR 30:488 (March 2004), LR 31:718 (March 2005), LR 32:431 (March 2006), LR 33:493 (March 2007), LR 34:683 (April 2008), LR 35:497 (March 2009), LR 36:778 (April 2010), amended by the Division of Administration, Tax Commission, LR 37:1399 (May 2011), LR 38:808 (March 2012), LR 39:495 (March 2013), LR 40:536 (March 2014), LR 41:678 (April 2015), LR 42:748 (May 2016), LR 43:654 (April 2017), LR 44:581 (March 2018), LR 45:535 (April 2019).

Chapter 13. Pipelines

§1307. Pipeline Transportation Tables

A. Current Costs for Other Pipelines (Onshore)

Table 1307.A Current Costs for Other Pipelines (Onshore)		
Diameter (inches)	Cost per Mile	15% of Cost per Mile
2	\$ 181,440	\$ 27,220
4	214,130	32,120
6	252,730	37,910
8	298,270	44,740
10	352,030	52,800
12	415,470	62,320
14	490,340	73,550
16	578,710	86,810
18	683,010	102,450
20	806,100	120,920
22	951,370	142,710
24	1,122,830	168,420
26	1,325,180	198,780
28	1,564,000	234,600
30	1,845,870	276,880
32	2,178,530	326,780
34	2,571,140	385,670
36	3,034,510	455,180
38	3,581,380	537,210
40	4,226,820	634,020
42	4,913,740	737,060
44	5,769,850	865,480
46	6,740,200	1,011,030
48	7,913,910	1,187,090

NOTE: Excludes river and canal crossings

B. Current Costs for Other Pipelines (Offshore)

Table 1307.B Current Costs for Other Pipelines (Offshore)		
Diameter (inches)	Cost per Mile	15% of Cost per Mile
2	\$ 1,015,050	\$ 152,260
4	1,018,440	152,770
6	1,022,680	153,400
8	1,040,420	156,060
10	1,065,740	159,860
12	1,098,620	164,790
14	1,139,070	170,860
16	1,187,080	178,060
18	1,242,660	186,400
20	1,305,820	195,870
22	1,376,530	206,480
24	1,454,820	218,220
26	1,540,670	231,100
28	1,634,090	245,110
30	1,735,080	260,260
32	1,843,640	276,550
34	1,959,760	293,960
36	2,083,450	312,520
38	2,214,710	332,210
40	2,353,530	353,030
42	2,499,930	374,990
44	2,653,890	398,080
46	2,815,420	422,310
48	2,984,510	447,680

C. Pipeline Transportation Allowance for Physical Deterioration (Depreciation)

Table 1307.C Pipeline Transportation Allowance for Physical Deterioration (Depreciation)	
Actual Age (Yrs)	26.5 Year Life Percent Good
1	98
2	96
3	94
4	91
5	88
6	86
7	83
8	80
9	77
10	73
11	70
12	67
13	63
14	60
15	56
16	52
17	48
18	44
19	39
20	35
21	33
22	30
23	28
24	26
25	25
26	23
27 and older	20 *

* Reflects residual or floor rate.

NOTE: See §1305.G (page PL-3) for method of recognizing economic obsolescence.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1837 and R.S. 47:2323.

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, Tax Commission, LR 8:102 (February 1982), amended LR 10:941 (November 1984), LR 12:36 (January 1986), LR 16:1063 (December 1990), amended by the Department of Revenue, Tax Commission, LR 24:489 (March 1998), LR 25:316 (February 1999), LR 26:509 (March 2000), LR 27:426 (March 2001), LR 31:719 (March 2005), LR 32:432 (March 2006), LR 33:494 (March 2007), LR 34:684 (April 2008), LR 35:499 (March 2009), LR 36:778 (April 2010), amended by the Division of Administration, Tax Commission, LR 37:1401 (May 2011), LR 38:809 (March 2012), LR 39:496 (March 2013), LR 40:537 (March 2014), LR 41:680 (April 2015), LR 42:748 (May 2016), LR 43:655 (April 2017), LR 44:582 (March 2018), LR 45:535 (April 2019).

Chapter 15. Aircraft

§1503. Aircraft (Including Helicopters) Table

A. Aircraft (Including Helicopters)

Table 1503 Aircraft (Including Helicopters)				
Cost Index (Average)		Average Economic Life (20 Years)		
Year	Index	Effective Age	Percent Good	Composite Multiplier
2018	0.982	1	97	.95
2017	1.016	2	93	.94
2016	1.036	3	90	.93
2015	1.028	4	86	.88
2014	1.038	5	82	.85
2013	1.051	6	78	.82
2012	1.060	7	74	.78
2011	1.090	8	70	.76
2010	1.124	9	65	.73
2009	1.115	10	60	.67
2008	1.148	11	55	.63
2007	1.193	12	50	.60
2006	1.258	13	45	.57
2005	1.316	14	40	.53
2004	1.416	15	35	.50
2003	1.465	16	31	.45
2002	1.489	17	27	.40
2001	1.498	18	24	.36
2000	1.511	19	22	.33
1999	1.538	20	21	.32
1998	1.543	21	20	.31

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1837 and R.S. 47:2323.

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, Tax Commission, LR 8:102 (February 1982), amended LR 10:943 (November 1984), LR 12:36 (January 1986), LR 13:188 (March 1987), LR 13:764 (December 1987), LR 14:872 (December 1988), LR 15:1097 (December 1989), LR 16:1063 (December 1990), LR 17:1213 (December 1991), LR 19:212 (February 1993), LR 20:198 (February 1994), LR 21:186 (February 1995), LR 22:117 (February 1996), LR 23:206 (February 1997), amended by the Department of Revenue, Tax Commission, LR 24:490 (March 1998), LR 25:316 (February 1999), LR 26:509 (March 2000), LR 27:427 (March 2001), LR 28:520 (March 2002), LR 29:370 (March 2003), LR 30:489 (March 2004), LR 31:719 (March 2005), LR 32:433 (March 2006), LR 33:495 (March 2007), LR 34:685 (April 2008), LR 35:499 (March 2009), LR 36:779 (April 2010), amended by the Division of Administration, Tax Commission, LR 37:1401 (May 2011), LR 38:809 (March 2012), LR 39:497 (March 2013), LR 40:538 (March 2014), LR 41:680 (April 2015), LR 42:749 (May 2016), LR 43:656 (April 2017), LR 44:584 (March 2018), LR 45:537 (April 2019).

Chapter 25. General Business Assets
§2503. Tables Ascertaining Economic Lives, Percent Good and Composite Multipliers of Business and Industrial Personal Property

A. - A.1. ...

B. Cost Indices

Table 2503.B Cost Indices			
Year	Age	National Average 1926 = 100	January 1, 2018 = 100*
2018	1	1667.7	0.982
2017	2	1612.2	1.016
2016	3	1580.9	1.036
2015	4	1593.7	1.028
2014	5	1578.8	1.038
2013	6	1558.7	1.051
2012	7	1545.9	1.060
2011	8	1503.2	1.090
2010	9	1457.4	1.124
2009	10	1468.6	1.115
2008	11	1427.3	1.148
2007	12	1373.3	1.193
2006	13	1302.3	1.258
2005	14	1244.5	1.316
2004	15	1157.3	1.416
2003	16	1118.6	1.465
2002	17	1100.0	1.489
2001	18	1093.4	1.498
2000	19	1084.3	1.511
1999	20	1065.0	1.538
1998	21	1061.8	1.543
1997	22	1052.7	1.556
1996	23	1036.0	1.581
1995	24	1020.4	1.605
1994	25	985.0	1.663
1993	26	958.0	1.710
1992	27	939.8	1.743
1991	28	928.5	1.764
1990	29	910.2	1.800
1989	30	886.5	1.848
1988	31	841.4	1.947

*Reappraisal Date: January 1, 2018 – 1638.2 (Base Year)

C. ...

D. Composite Multipliers 2019 (2020 Orleans Parish)

Table 2503.D Composite Multipliers 2019 (2020 Orleans Parish)										
Age	3 Yr	5 Yr	6 Yr	8 Yr	10 Yr	12 Yr	15 Yr	20 Yr	25 Yr	30 Yr
1	.69	.83	.85	.88	.90	.92	.93	.95	.96	.96
2	.50	.70	.74	.80	.85	.88	.91	.94	.95	.95
3	.35	.54	.59	.69	.79	.83	.88	.93	.95	.95
4	.16	.35	.42	.56	.69	.75	.81	.88	.93	.95
5		.24	.31	.45	.60	.69	.76	.85	.90	.94
6		.19	.20	.35	.51	.61	.71	.82	.88	.94
7			.19	.28	.41	.53	.66	.78	.86	.91
8				.24	.33	.47	.60	.76	.85	.90

Table 2503.D Composite Multipliers 2019 (2020 Orleans Parish)										
9				.22	.27	.40	.55	.73	.84	.90
10					.23	.32	.48	.67	.79	.88
11					.23	.28	.42	.63	.78	.87
12						.26	.37	.60	.76	.86
13						.25	.33	.57	.75	.85
14							.30	.53	.74	.85
15							.30	.50	.74	.84
16							.29	.45	.70	.84
17								.40	.66	.84
18								.36	.58	.81
19								.33	.51	.77
20								.32	.46	.72
21								.31	.43	.68
22									.40	.62
23									.38	.58
24									.32	.55
25									.31	.52
26									.30	.48
27										.45
28										.41
29										.38
30										.37
31										.36

1. Data sources for tables are:

- a. Cost Index—Marshall and Swift Publication Co.;
- b. Percent Good—Marshall and Swift Publication Co.;
- c. Average Economic Life—various.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1837 and R.S. 47:2323.

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, Tax Commission, LR 8:102 (February 1982), amended LR 9:69 (February 1983), LR 10:944 (November 1984), LR 12:36 (January 1986), LR 13:188 (March 1987), LR 13:764 (December 1987), LR 14:872 (December 1988), LR 15:1097 (December 1989), LR 16:1063 (December 1990), LR 17:1213 (December 1991), LR 19:212 (February 1993), LR 20:198 (February 1994), LR 21:186 (February 1995), LR 22:117 (February 1996), LR 23:207 (February 1997), amended by the Department of Revenue, Tax Commission, LR 24:490 (March 1998), LR 25:317 (February 1999), LR 26:509 (March 2000), LR 27:427 (March 2001), LR 28:520 (March 2002), LR 29:370 (March 2003), LR 30:489 (March 2004), LR 31:719 (March 2005), LR 32:433 (March 2006), LR 33:496 (March 2007), LR 34:686 (April 2008), LR 35:500 (March 2009), LR 36:780 (April 2010), amended by the Division of Administration, Tax Commission, LR 37:1402 (May 2011), LR 38:810 (March 2012), LR 39:497 (March 2013), LR 40:538 (March 2014), LR 41:681 (April 2015), LR 42:750 (May 2016), LR 43:656 (April 2017), LR 44:584 (March 2018), LR 45:538 (April 2019).

Chapter 31. Public Exposure of Assessments; Appeals
§3101. Public Exposure of Assessments, Appeals to the Board of Review and Board of Review Hearings

A. - K. ...

**Form 3101
 Exhibit A
 Appeal to Board of Review by Property Owner/Taxpayer
 for Real and Personal Property**

Name: _____ Parish/District: _____
 Taxpayer

Address: _____ City, State, Zip: _____

Ward: _____ Assessment/Tax Bill Number: _____ Appeal No. _____

Board of Review

(Attach copy of complete appeal submitted to the Board of Review)
Address or Legal Description of Property Being Appealed (Also, please identify building by place of business for convenience of appraisal)

I hereby request the review of the assessment of the above described property pursuant to L.R.S. 47:1992. I timely filed my reports (if personal property) as required by law, and I have reviewed my assessment with my assessor.

The assessor has determined Fair Market Value of this property at:
Land \$ _____ Improvement \$ _____ Personal Property* \$ _____
Total \$ _____

I am requesting that the Fair Market Value of this property be fixed at:
Land \$ _____ Improvement \$ _____ Personal Property* \$ _____
Total \$ _____

* If you are not appealing personal property, leave this section blank.

I understand that property is assessed at a percentage of fair market value which means the price for the property which would be agreed upon between a willing and informed buyer and a willing and informed seller under usual and ordinary circumstances, the highest price the property would bring on the open market if exposed for sale for a reasonable time. I understand that I must provide the Board of Review with evidence of fair market value to support my claim.

Please notify me of the date, place and time of my appeal at the address shown below.

NOTE: If property owner/taxpayer disputes the Board of Review's decision, property owner/taxpayer may appeal to the La. Tax Commission by completing and submitting Appeal Form 3103.A to the LTC within 10 business days after certified mail delivery to the appealing taxpayer or assessor of the BOR's written determination. For further information, call the LTC at (225) 219-0339.

Property Owner/Taxpayer
Address: _____

Telephone No. _____
Email Address: _____

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1992, R.S. 47:2301 and R.S. 47:2321.

HISTORICAL NOTE: Promulgated by the Louisiana Tax Commission, LR 3:289 (June 1977), amended by the Department of Revenue and Taxation, Tax Commission, LR 8:102 (February 1982), LR 15:1097 (December 1989), LR 19:212 (February 1993), amended by the Department of Revenue, Tax Commission, LR 25:319 (February 1999), LR 26:512 (March 2000), LR 30:492 (March 2004), LR 32:435 (March 2006), LR 33:498 (March 2007), LR 34:688 (April 2008), LR 35:501 (March 2009), LR 36:781 (April 2010), amended by the Office of the Governor, Division of Administration, Tax Commission, LR 37:1403 (May 2011), LR 38:811 (March 2012), LR 40:539 (March 2014), LR 41:682 (April 2015), LR 42:751 (May 2016), LR 43:657 (April 2017), LR 45:538 (April 2019).

§3103. Appeals to the Louisiana Tax Commission

A. - B. ...

C. All filings to the Louisiana Tax Commission shall be filed in proper form, consisting of an original and seven copies on letter size paper, with the Office of the Administrator, unless otherwise provided herein. All exhibits, where it is helpful, to the consideration of such exhibits, shall be indexed, numbered, color coded, tabbed or otherwise so identified as to provide ready accessibility. If the total of one party's exhibits exceed 100 pages, such

exhibits must be submitted to the Tax Commission in electronic/digital form along with seven (7) paper copies. All appeals and filings shall be deemed filed when deposited with the United States Postal Service and can be evidenced by proof of mailing by registered or certified mail.

1. The Office of the Administrator shall be sent one "service copy" of all State Court, Federal Court, Appellate Court, and/or Supreme Court pleadings in which the LTC is named party.

D.1. - D.4. ...

5. The party who has not appealed the Board of Review decision shall file and serve on the opposing party at least eight days prior to the scheduled hearing date all documents and papers that may be offered into evidence at the hearing.

D.6. - I. ...

J. Any taxpayer or assessor may appear and be represented by an attorney at law authorized to practice law before the highest court of any state; a natural person may appear in his own behalf, through an immediate family member, an attorney, or Registered Tax Representative as herein defined below; or a corporation, partnership or association may appear and be represented to appear before the commission by a bona fide officer, partner, full time employee, or any other person duly authorized as provided for on "Exhibit B, Power of Attorney" (Form 3103.B).

1. Registered Tax Representative is a person who represents another person at a proceeding before the Louisiana Tax Commission, The term does not include:

- a. the owner of the property or person liable for the taxes that is the subject of the appeal;
- b. an immediate family member of the owner of the property;
- c. a permanent full-time employee of the owner of the property or person liable for the taxes who is the subject of the appeal;
- d. representatives of local units of government appearing on behalf of the unit or as the authorized representative of another unit;
- e. a certified public accountant, when the certified public accountant is representing a client in a matter that relates only to personal property taxation; or
- f. an attorney who is a member in good standing of the Louisiana bar or any person who a member in good standing of any other state bar and who has been granted leave by the board to appear pro hac vice.

2. To serve as a Registered Tax Representative, a person must:

- a. be properly registered with the commission;
- b. be 18 years of age;
- c. have fully complied with all rules adopted by the commission regarding professional conduct and ethical considerations;
- d. have read and is familiar with all rules and regulations promulgated by the commission; and
- e. have a copy of a properly executed power of attorney from the taxpayer on the form prescribed by the commission on file before a hearing will be scheduled.

K. - T. ...

U. The parties to an appeal shall be notified in writing, by certified mail and electronic mail, of the final decision by the commission. The taxpayer or assessor shall have 30 days

from entry of the decision to appeal to a court of competent jurisdiction.

V. - Z. ...

**Form 3103.A
Exhibit A
Appeal to Louisiana Tax Commission
by Property Owner/Taxpayer or Assessor
for Real and Personal Property**

La. Tax Commission
P.O. Box 66788
Baton Rouge, LA 70896
(225) 219-0339

Name: _____ Parish/District: _____
Property Owner/Taxpayer/Assessor
Address: _____ City, State, Zip: _____

Ward: _____ Assessment Tax Bill No.: _____ Appeal No.: _____
(Attach copy of complete appeal submitted to the Board of Review)

Address or Legal Description of Property Being Appealed. Also, please identify building by place of business for convenience of appraisal. _____

I hereby appeal the decision of the Board of Review on the assessment of the above described property pursuant to L.R.S. 47:1992. I timely filed my appeal as required by law.

The original Fair Market Value by the assessor was:
Land \$ _____ Improvement \$ _____
Personal Property \$ _____ Total \$ _____

The proposed Fair Market Value by the taxpayer was (at the Board of Review):
Land \$ _____ Improvement \$ _____
Personal Property \$ _____ Total \$ _____

The Fair Market Value determined by the Board of Review was:
Land \$ _____ Improvement \$ _____
Personal Property \$ _____ Total \$ _____

* If you are not appealing personal property leave this section blank.

Note: Both parties have the right to appeal the Board of Review's decision. If you disagree with the Board of Review's determination, you must file an appeal. The appeal of the decision of the Board of Review by one party is not an appeal of that decision from the other party. To protect your rights, if you disagree with the determination of the Board of Review, you should file an appeal to the Louisiana Tax Commission challenging the Board of Review's determination regardless of whether or not the other party has appealed that decision.

Appellant: (Property Owner/Taxpayer/Assessor)
Address: _____

Telephone No.: _____
Email Address: _____
Date of Appeal: _____

**Form 3103.B
Exhibit B
Power of Attorney**

PLEASE TYPE OR PRINT

Taxpayer(s) must sign and date this form on Page 2.

I. TAXPAYER:

Your Name or Name of Entity: _____
Street Address, City, State, ZIP: _____

I/we appoint the following representative as my/our true and lawful agent and attorney-in-fact to represent me/us before the Louisiana Tax Commission. The representative is authorized to receive and inspect confidential information concerning me/our tax matters, and to perform any and all acts that I/we can perform with respect to my/our tax matters, unless noted below. Modes of communication for requesting and receiving information may include telephone, e-mail, or fax. The authority does not include the power to receive refund checks, the power to substitute another representative, the power to add additional representatives, or the power to execute a request for disclosure of tax information to a third party.

Representatives must sign and date this form on Page 3.

II. AUTHORIZED REPRESENTATIVE:

Name: _____
Firm: _____
Street Address _____
City, State, ZIP: _____
Telephone Number: () _____
Fax Number: () _____
Email Address: _____

III. SCOPE OF AUTHORIZED APPOINTMENT:

Acts Authorized. Mark only the boxes that apply. By marking the boxes, you authorize the representative to perform any and all acts on your behalf, including the authority to sign tax returns, with respect only to the indicated tax matters:

A. Duration: _____ Tax Year _____ (Days, Months, etc.) _____ Until Revoked.

B. Agent Authority:

- 1. General powers granted to represent taxpayer in all matters.
- 2. Specified powers as listed.
 - (a.) File notices of protest and present protests before the Louisiana Tax Commission.
 - (b.) Receive confidential information filed by taxpayer.
 - (c.) Negotiate and resolve disputed tax matters without further authorization.
 - (d.) Represent taxpayer during appeal process.

C. Properties Authorized to Represent:

- 1. All property.
- 2. The following property only (give assessment number and municipal address or legal description).

Additional properties should be contained on separate page

NOTICES AND COMMUNICATIONS: Original notices and other written communication will be sent only to you, the taxpayer. Your representative may request and receive information by telephone, e-mail, or fax. Upon request, the representative may be provided with a copy of a notice or communication sent to you. If you want the representative to request or receive a copy of notices and communications sent to you, check this box.

REVOCATION OF PRIOR POWER(S) OF ATTORNEY: Except for Power(s) of Attorney and Declaration of Representative(s) filed on this Form, the filing of this Power of Attorney automatically revokes all earlier Power(s) of Attorney on file with the Louisiana Tax Commission for the same tax matters and years or periods covered by this document.

SIGNATURE OF TAXPAYER(S): If a tax matter concerns jointly owned property, all owners must sign if joint representation is requested. If signed by a corporate officer, partner, guardian, tax matters partner, executor, receiver, administrator, or trustee on behalf of the taxpayer. I certify that I have the authority to execute this form on behalf of the taxpayer.

IF THIS POWER OF ATTORNEY IS NOT SIGNED AND DATED, IT WILL BE RETURNED.

Signature _____

Date (mm/dd/yyyy) _____

Spouse/Other Owner Signature _____

Date (mm/dd/yyyy) _____

Signature of Duly Authorized Representative, if the taxpayer title is a corporation, partnership, executor, or administrator _____

Date (mm/dd/yyyy) _____

IV. DECLARATION OF REPRESENTATIVE:

Under penalties of perjury, I declare that:

I am authorized to represent the taxpayer identified above and to represent that taxpayer as set forth in Part III specified herein; I have read and am familiar with all the rules and regulations promulgated by the commission; I have fully complied with all rules adopted by the commission regarding professional conduct and ethical considerations.

Signature _____

Date (mm/dd/yyyy) _____

IF THIS DECLARATION OF REPRESENTATIVE IS NOT SIGNED AND DATED, THE POWER OF ATTORNEY WILL BE RETURNED.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1837, R.S. 47:1989 and R.S. 47:1992.

HISTORICAL NOTE: Promulgated by the Louisiana Tax Commission, LR 4:339 (September 1978), amended by the Department of Revenue and Taxation, Tax Commission, LR 10:947 (November 1984), LR 15:1097 (December 1989), LR 20:198 (February 1994), LR 21:186 (February 1995), LR 22:117 (February 1996), amended by the Department of Revenue, Tax Commission, LR 24:492 (March 1998), LR 25:319 (February 1999), LR 26:512 (March 2000), LR 28:521 (March 2002), LR 31:721 (March 2005), LR 32:436 (March 2006), LR 33:498 (March 2007), LR 34:688 (April 2008), LR 36:782 (April 2010), amended by the Office of the Governor, Division of Administration, Tax Commission, LR 38:811 (March 2012), LR 41:682 (April 2015), LR 42:752 (May 2016), LR 43:658 (April 2017), LR 45:539 (April 2019).

§3105. Practice and Procedure for Public Service Properties Hearings

A. - S. ...

**Form 3105.A
Exhibit A
Appeal to Louisiana Tax Commission
by Taxpayer
For Public Service Property**

La. Tax Commission
P.O. Box 66788
Baton Rouge, LA 70896
(225) 219-0339

Taxpayer Name:
Address:
City, State, Zip:
Circle one Industry:
Airline Boat/Barge Co-op Electric Pipeline Railcar Railroad Telephone

The Fair Market Value as determined by the Public Service Section of the Louisiana Tax Commission is:
Total \$ _____

I am requesting that the Fair Market Value be fixed at:
Total \$ _____

I understand that property is assessed at a percentage of fair market value which means the price for the property which would be agreed upon between a willing and informed buyer and a willing and informed seller under usual and ordinary circumstances, the highest price the property would bring on the open market if exposed for sale for a reasonable time.

Appellant:
Address: _____

Telephone No. : _____
Email Address: _____

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1837 and R.S. 47:1856.

HISTORICAL NOTE: Promulgated by the Louisiana Tax Commission, LR 4:339 (September 1978), amended by the Department of Revenue and Taxation, Tax Commission, LR 10:947 (November 1984), LR 15:1097 (December 1989), LR 20:198 (February 1994), LR 21:186 (February 1995), LR 23:209 (February 1997), amended by the Department of Revenue, Tax Commission, LR 24:493 (March 1998), LR 25:320 (February 1999), LR 26:513 (March 2000), LR 30:492 (March 2004), LR 31:723 (March 2005), LR 32:438 (March 2006), LR 33:499 (March 2007), LR 34:689 (April 2008), LR 36:782 (April 2010), amended by the Office of the Governor, Division of Administration, Tax Commission, LR 38:812 (March 2012), LR 41:683 (April 2015), LR 43:661 (April 2017), LR 45:541 (April 2019).

§3106. Practice and Procedure for the Appeal of Bank Assessments

A. - T. ...

**Form 3106.A
Appeal to Louisiana Tax Commission
by Taxpayer
for Bank Stock Assessments**

LA Tax Commission
P.O. Box 66788
Baton Rouge, LA 70896
(225) 219-0339

Name: _____ Parish/District: _____
Taxpayer
Address: _____ City, State, Zip: _____
Address or Legal Description of Property Being Appealed

The Fair Market Value of the Administrative Section of the Louisiana Tax Commission is: \$ _____

I am requesting that the Fair Market Value be fixed at: \$ _____

Appellant:
Address: _____

Telephone No.: _____
Date: _____
Email Address: _____

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1837.

HISTORICAL NOTE: Promulgated by the Department of Revenue, Tax Commission, LR 33:499 (March 2007), LR 34:690 (April 2008), LR 36:782 (April 2010), amended by the Division of Administration, Tax Commission, LR 38:812 (March 2012), LR 41:683 (April 2015), LR 43:661 (April 2017), LR 45:541 (April 2019).

§3107. Practice and Procedure for Appeal of Insurance Credit Assessments

A. - T. ...

**Form 3107.A
Appeal To Louisiana Tax Commission
by Taxpayer
for Insurance Assessments**

LA Tax Commission
P.O. Box 66788
Baton Rouge, LA 70896
(225) 219-0339

Lawrence E. Chehardy
Chairman

Name: _____ Parish/District: _____
Taxpayer

Address: _____ City, State, Zip: _____
Address or Legal Description of Property Being
Appealed _____

The Fair Market Value of the Administrative Section of the Louisiana Tax
Commission is: \$ _____

I am requesting that the Fair Market Value be fixed at: \$ _____

Appellant: _____
Address: _____

Telephone No.: _____
Date: _____
Email Address: _____

AUTHORITY NOTE: Promulgated in accordance with R.S.
47:1837.

HISTORICAL NOTE: Promulgated by the Department of
Revenue, Tax Commission, LR 33:501 (March 2007), amended LR
34:690 (April 2008), LR 36:782 (April 2010), amended by the
Office of the Governor, Division of Administration, Tax
Commission, LR 38:812 (March 2012), LR 41:683 (April 2015),
LR 43:661 (April 2017), LR 45:541 (April 2019).

Chapter 35 Miscellaneous

§3501. Service Fees—Tax Commission

A. The Tax Commission is hereby authorized on an
interim basis for the period beginning on July 1, 2018, and
ending on June 30, 2022, to levy and collect the following
fees in connection with services performed by the
commission.

1. A fee for the assessment of public service
properties, at the rate of four hundredths of one percent of
the assessed value of such properties, to be paid by each
public service property which pays ad valorem taxes.

2. A fee for the assessment of insurance companies,
at the rate of three hundredths of one percent of the assessed
value of such properties, to be paid by each insurance
company which pays ad valorem taxes.

3. A fee for the assessment of financial institutions, at
the rate of three hundredths of one percent of the assessed
value of such properties, to be paid by each bank stock and
loan and finance company which pays ad valorem taxes.

B. - D.1. ...

AUTHORITY NOTE: Promulgated in accordance with R.S.
47:1835 and R.S. 47:1838.

HISTORICAL NOTE: Promulgated by the Department of
Revenue and Taxation, Tax Commission, LR 19:212 (February
1993), amended LR 20:198 (February 1994), amended by the
Department of Revenue, Tax Commission, LR 24:494 (March
1998), LR 25:320 (February 1999), LR 26:513 (March 2000), LR
28:521 (March 2002), LR 30:493 (March 2004), LR 31:724 (March
2005), LR 32:439 (March 2006), LR 33:502 (March 2007), LR
35:501 (March 2009), amended by the Office of the Governor,
Division of Administration, Tax Commission, LR 37:1403 (May

2011), LR 41:683 (April 2015), LR 43:662 (April 2017), LR
44:585 (March 2018), LR 45:542 (April 2019)

1904#029

RULE

**Office of the Governor
Board of Cosmetology**

Cosmetology (LAC 46:XXXI.Chapters 3, 5, 7 and 17)

The Louisiana State Board of Cosmetology, under
authority of the Louisiana Cosmetology Act, R.S. 37:561-
607, and in accordance with the Administrative Procedure
Act, R.S. 49:950 et seq., has amended certain rules relative
to high school cosmetology course requirements, student
registration reporting requirements, clinic floor minimum
standards, adoption of school uniform policy, authorization
requirements prior to changes in school operating
procedures, equipment required in threading facilities,
reinstatement procedures, and disposable equipment; and to
amend certain rules relative to reporting and correcting
student hours, reporting student registration and attendance,
school faculty requirements and prohibitions, student
registration access requirements, minimum equipment and
operation requirements, student uniform responsibilities,
expiration of student hours, booth renters, cosmetology
instructors, continuing education requirements, master
cosmetology instructors, equipment required in manicuring
salons, school and salon remodeling requirements, picture
identification requirements, and non-sufficient fund
payments; to repeal certain rules relative to student
examination requirements and school libraries; and to make
technical revisions. This Rule is hereby adopted on the day
of promulgation.

Title 46

**PROFESSIONAL AND OCCUPATIONAL
STANDARDS**

Part XXXI. Cosmetologists

Chapter 3. Schools and Students

§309. Examination of Applicants

A. - D. ...

E. Examination. Students must bring a mannequin to the
examination. Students will be required to perform practical
work on the mannequin during the examination.

AUTHORITY NOTE: Promulgated in accordance with R.S.
37:575(A)(4) and R.S. 37:586.

HISTORICAL NOTE: Promulgated by the Office of the
Governor, Division of Administration, Board of Cosmetology, LR
29:327 (March 2003), amended LR 32:834 (May 2006), amended
by the Office of the Governor, Board of Cosmetology, LR 44:909
(May 2018), LR 45:542 (April 2019).

**§310. Requirements for High School Cosmetology
Courses**

A. Curriculum. High schools approved by the Louisiana
Department of Education may be approved by the board to
offer up to 500 hours of cosmetology theory instruction
transferable to a cosmetology school approved by the board.

B. Registration. High schools may register students who are:

1. enrolled within the school system;
2. at least 16 years of age; and
3. completed the tenth grade (11 credits).

C. Faculty. Each faculty member who teaches cosmetology theory must have an active Louisiana cosmetology instructor license. At least one active Louisiana cosmetology instructor must be available for substitution in the event the regular instructor is unavailable.

D. Classrooms. A detailed floor plan of the proposed classroom, drawn to scale, shall be submitted to the board for approval. The cosmetology theory classroom shall be at least 400 square feet, have equipment necessary for demonstration and have adequate ventilation. No cosmetology instructor shall teach more than 20 students at any class period. No clinic shall be operated in a high school. No services shall be performed for the public or on paying clients at a high school.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:575(A)(7).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Cosmetology, LR 45:542 (April 2019).

§311. Reporting Student Hours

A. Registration. Schools shall register students with the board by submitting an accurate and completed registration application as well as the required supporting documentation within 45 days after the students start school. The maximum number of hours which will be accepted by the board at the time of registration is the number of hours earned within 45 days preceding registration. Completed registration applications received by the board more than 45 days after the student started school shall be considered late. The board's staff is authorized to register the student and credit hours earned upon payment of the following fine for the late student registration if the school waives its right to a hearing before the board.

Days from Student's Start Date to Board's Receipt of Completed Application	Days Late	Fine
46-74	1-29	\$250
75-104	30-59	\$500
105-134	60-89	\$1000
135-164	90-119	\$1500
165+	120+	\$2500

B. Hours. Schools must register each student's hours with the board no later than on the tenth of the month for hours earned by each enrolled student in the prior month. Any student who did not earn any hours during the month shall be included on the report and the number of hours earned shall be reported as zero. Schools may correct hours submitted to the board within the preceding 60 days. Corrections to hours submitted more than 60 days prior may be corrected by the staff upon payment of a fine of \$50 per month for each student record corrected if the school waives its right to a hearing before the board.

C. Attendance. A representative of the school designated by the school owner must certify the student's attendance for hours reported to the board. No overtime or double time shall be permitted. Only hours devoted to the prescribed

curriculum shall be included. Students shall not earn more than 48 hours of training in any calendar week.

D. - F. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:575(A)(9) and R.S. 37:595(A)(5).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Board of Cosmetology, LR 29:327 (March 2003), amended LR 32:835 (May 2006), LR 33:1628 (August 2007), amended by the Office of the Governor, Board of Cosmetology, LR 44:909 (May 2018), LR 45:543 (April 2019).

§315. Responsibilities of Schools

A. - A.6. ...

7. Schools shall verify all student registration documents required by this Section within 30 days after the student starts school. If the school is not in possession of all documentation required for registration within 30 days of the student starting school, the student shall not be permitted to attend classes for course credit and the school shall not charge the student any fee for attending class.

B. - D. ...

E. Faculty. No school shall permit an instructor who has an expired or inactive instructor's license to teach cosmetology courses for course credit. All schools must maintain a faculty of at least one instructor per every 20 students enrolled. Each faculty shall include at least two instructors, who are teachers registered by the board, at least one of whom shall have been a registered teacher and in active practice for at least 18 months. The school shall be supervised by a registered teacher of cosmetology in active practice, with at least 24 months of teaching experience in an accredited school of cosmetology approved by the board. An instructor roster must be submitted on a quarterly basis.

F. ...

G. School Closing. Any school owner who intends to close any school shall notify the board in writing as soon as possible. Electronic copies of documents relative to closure must be provided to the board office, including, but not limited to, teach-out plans and teach-out agreements. The board shall be the custodian of records for any school which closes.

H. - I. ...

J. Registrations. All student registrations must be posted in a conspicuous place or kept in a binder in a place accessible to students during regular school hours.

K. ...

L. Repealed.

M. - O. ...

P. Clinic Floor. Students must have a student registration and have completed a minimum of 100 hours in the curriculum prior to performing services on the clinic floor. Students shall perform services only within the curriculum on the student registration certificate.

Q. Uniform Policy. On or before July 1, 2019, each school shall adopt and implement a uniform policy consistent with LAC 46:XXX.321(C).

R. Changes. Any change including but not limited to the curriculum, class schedules, or hours of operation which impact students must be requested in writing to the board for approval prior to implementing the requested change unless the change is due to an emergency. The school shall notify the board of any change due to an emergency as soon as possible.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:575(A)(9) and R.S. 37:595.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Board of Cosmetology, LR 29:327 (March 2003), amended by the Office of the Governor, Board of Cosmetology, LR 44:910 (May 2018), LR 45:543 (April 2019).

§317. Equipment Required in Cosmetology Schools

- A. - A.1 ...
2. three hair dryers;
 3. - 4 ...
 5. Repealed.
 6. ...
 7. sanitizing station with an adequate supply of wet sanitizer;
 8. six extra mannequins for teaching purposes;
 9. twenty working stations with space for working and supplies;
 10. - 11. ...

B. Classroom. Every cosmetology school must have a minimum of 3,500 square feet. Every classroom must be a minimum of 400 square feet, entirely separate from the practical work room, equipped with the following:

1. anatomy charts;
2. marker or chalk board, dry erase, or electronic board for teaching

B.3. - C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:575(A)(9) and R.S. 37:595(A).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Board of Cosmetology, LR 29:328 (March 2003), amended LR 45:544 (April 2019).

§321. Responsibilities of Students

A. - B. ...

C. School Uniforms. Students attending schools shall maintain a professional image and shall wear clean uniforms.

1. Students may wear pants or skirts; however, skirt hemlines must not be shorter than just above the knee.
2. ...
3. Students must wear clean, enclosed shoes with socks.
4. ...
5. - 5.n.Repealed.

D. Students must adhere to the school's uniform policy.

E. Hours. Student hours shall become invalid six years after the date the hours were earned if the student does not complete the curriculum. Earned hours do not expire if the student completed the curriculum.

AUTHORITY NOTE: Promulgated in accordance with R.S.37:575(A)(2).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Board of Cosmetology, LR 29:329 (March 2003), amended LR 29:2781 (December 2003), LR 32:835 (May 2006), LR 33:1628 (August 2007), LR 45:544 (April 2019).

Chapter 5. Licensees

§501. Booth Renters (Formerly LAC 46:XXXI.1103)

A. Agreement. Any individual performing cosmetology services in a salon who is not paid by commission, an hourly rate, or salary must obtain a booth renter's permit. A copy of the executed agreement between the salon owner and the cosmetologist shall be submitted to the board at the time of

application for a booth rental permit. A booth renter's permit shall be issued after an inspection of the booth prior to services being performed in the rented booth. Booth renter permits are non-transferable.

B. - B.3. ...

AUTHORITY NOTE: Promulgated in accordance with R.S.37:592 and R.S.37:593.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Board of Cosmetology, LR 29:329 (March 2003), amended LR 45:544 (April 2019).

§505. Cosmetology Instructors

A. Instructors. No person shall teach a cosmetology, manicuring, esthetics, or any course required for licensure without an active instructor's license for the curriculum.

B. Master Instructors. All instructors with a minimum of five consecutive years teaching experience and who attend 16 hours of approved continuing education for five consecutive years will receive a master instructor license with an official title, MCI.

C. Reinstatements.

1. Instructors. An expired or inactive instructor's license shall only be reinstated or renewed only if the applicant has completed the required continuing education hours within the 24-month period preceding the application for reinstatement or renewal.

2. Master Instructors. In order to maintain the master instructor license the instructor must attend a minimum of 16 hours of approved continuing education each year. If a master instructor does not attend the 16 hours during one year, the master instructor license will be reinstated after two consecutive years of completing 16 hours of approved continuing education.

D. Continuing Education. Each licensed instructor shall attend a board approved seminar at least once every two years to maintain active status. The continuing education seminar shall consist of at least 16 hours of training in cosmetology and related fields as approved by the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:575(A)(2).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Board of Cosmetology, LR 29:329 (March 2003), amended LR 45:544 (April 2019).

Chapter 7. Safety and Sanitation Requirements

§707. Equipment Required in Salons Offering Esthetics Services

A. - A.1. ...

2. stool for operator;

A.3. - B.6. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:575(A)(9).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Board of Cosmetology, LR 29:330 (March 2003), amended LR 32:835 (May 2006), LR 45:544 (April 2019).

§709. Equipment Required in Salons Offering Manicuring Services

A. - A.5 ...

6. manicuring table;
7. lavatory with hot and cold running water; and
8. water basin or pedicure chair for salons offering pedicure services.

B. ...

AUTHORITY NOTE: Promulgated in accordance with R.S.37:575(A)(9).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Board of Cosmetology, LR 29:330 (March 2003), amended LR 32:835 (May 2006), amended by the Office of the Governor, Board of Cosmetology, LR 44:911 (May 2018), LR 45:544 (April 2019).

§710. Equipment Required in a Threading Facilities

A. Threading Equipment. Threading shall not be performed in any threading facility or salon unless the following items are available for use:

1. hand washing sink;
2. hot and cold running water;
3. stool for operator and chair for client;
4. lamp;
5. sanitizers or sterilizers for implements;
6. thread;
7. towels;
8. covered waste bins; and
9. covered container for towels.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:575(A)(9).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Cosmetology, LR 45:545 (April 2019).

§711. Procedures for Esthetics Services

A. - B.1. ...

2. wash all implements with antimicrobial wash prior to sanitization or sterilization;

3 - 4. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:575(A)(9).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Board of Cosmetology, LR 29:331 (March 2003), amended LR 45:545 (April 2019).

§715. Disposable Equipment

A. - A.8. ...

9. cotton pads;
10. emery boards; and
11. razors.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:575(A)(9).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Board of Cosmetology, LR 29:331 (March 2003), amended LR 45:545 (April 2019).

Chapter 17. Miscellaneous Provisions

§1707. Remodeling

A. Application. When any school, salon, or mobile salon desires to remodel, a notice of intent shall be submitted to the board.

B. Temporary Premises. If remodeling requires the use of temporary premises for the continuance of operation during remodeling, an inspector may approve such temporary premises as are adequate provided such premises are sanitary and sufficient for use during the stated time period.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:575(A)(2).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Board of Cosmetology, LR 29:334 (March 2003), amended by the Office of the Governor, Board of Cosmetology, LR 44:913 (May 2018), LR 45:545 (April 2019).

§1709. Picture Identification

A. All licensees and permittees shall have in their possession a valid driver's license or identification card issued pursuant to R.S. 40:1321, or other generally

recognized picture identification card that includes the name of the licensee or permittee picture identification at any time at which a service is being performed.

B. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:575(A)(2).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Board of Cosmetology, LR 29:334 (March 2003), amended LR 29:2782 (December 2003), amended by the Office of the Governor, Board of Cosmetology, LR 44:913 (May 2018), LR 45:545 (April 2019).

§1711. NSF Checks

A. Late Fee. If a check received by the board is returned to the board by the bank due to non-sufficient funds the payment date shall be the date of receipt of valid payment, any bank charge imposed on the board and any applicable late fee.

B. Revocation. If a license was issued before a check is returned to the board by the bank due to non-sufficient funds, the applicant's license shall be subject to revocation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:575(A)(2).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Board of Cosmetology, LR 29:334 (March 2003), amended LR 45:545 (April 2019).

Steve Young
Executive Director

1904#045

RULE

**Office of the Governor
Boxing and Wrestling Commission**

Professional Wrestling
(LAC 46:XI.Chapter 5)

The Louisiana State Boxing and Wrestling Commission does hereby exercise the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., to adopt the following Rule. This Rule is necessary to promote the safety of contestants, other participants and spectators, to repeal sections previously moved to the general rules, to clarify and update wrestling rules pursuant to prohibited wrestling holds and moves to national and international wrestling standards and enforcement thereof. This Rule also introduces new Class "B" wrestling standards pursuant to legislation passed in the 2018 Regular Session, HB 502. This Rule is hereby adopted on the day of promulgation.

Title 46

**PROFESSIONAL AND OCCUPATIONAL
STANDARDS**

Part XI. Boxing and Wrestling

Chapter 5. Professional Wrestling

Subchapter A. Class "A" Wrestling

§501. Ring Rules

A. In addition to the rules set forth below, Chapter 1. General Rules set forth above shall apply to Professional Wrestling.

AUTHORITY NOTE: Adopted in accordance with R.S. 4:61(D) and R.S. 4:64.

HISTORICAL NOTE: Adopted by the Department of Commerce, Boxing and Wrestling Commission, 1967, amended

1974, amended by the Office of the Governor, Boxing and Wrestling Commission, LR 45:545 (April 2019).

§503. Special Wrestling Rules

A. The following special rules and regulations apply particularly to all persons and parties licensed as wrestlers, wrestling managers, wrestling commissions, wrestling promoters and wrestling matchmakers, or to any other individual issued a wrestling license by this commission.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:61(D) and R.S. 4:64.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Boxing and Wrestling Commission, LR 45:546 (April 2019).

§505. Commission Representative Present at Wrestling Show

A. Each wrestling match shall be attended by either a commission member or commission representative, hereinafter "commission official." The commission official shall have the full power to act on behalf of the commission to interpret, construe, and fully enforce all the rules of the commission and each such official has the power and authority to immediately suspend, without prior notice, any licensee for any violation of the rules of the commission or of the laws of this state.

B. The commission official in charge of any wrestling contest or exhibition shall have complete authority over all phases of the event, including entrances for participants, officials, and employees; the ring and ringside, including press, radio and television accommodations; over all the dressing rooms of participants and officials; the counting and accounting for all tickets, including working press, complimentary tickets for participants, officials, and employee tickets; the collection of all fees, and the issuance of all licenses and the fees therefore.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:61(D) and R.S. 4:64.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Boxing and Wrestling Commission, LR 45:546 (April 2019).

§507. Officials

A. The promoter shall provide all officials for the event, including the referee. The promoter is responsible to the commission for all actions of these appointed officials. The failure to manage, appoint or properly supervise said officials may lead to the suspension of the promoter.

B. The commission official can over-rule the promoter's choice of official and require that another official be appointed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:61(D) and R.S. 4:64.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Boxing and Wrestling Commission, LR 45:546 (April 2019).

§509. Conduct of the Participants

A. It shall be the duty of the referee, promoter, and his agents and employees, and the participants in any wrestling exhibition to maintain peace and order in the conduct of any exhibition.

B. No person under the age of 16 years shall participate in any professional wrestling match.

C. A wrestler shall not physically engage and/or include in the bout any spectator or third person not licensed by the commission.

D. A wrestler shall not deliberately cut or otherwise mutilate himself while participating in a wrestling contest or exhibition.

E. No wrestler shall molest, hit or abuse any spectator, referee or judge, or engage in any unsportsmanlike conduct.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:61(D) and R.S. 4:64.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Boxing and Wrestling Commission, LR 45:546 (April 2019).

§511. Holds

A. Any hold, grip, lock or trip is allowed except as herein listed: stranglehold, scratching, eye gouging, striking with knuckles, pulling hair, kicking, butting in the face, cutting off breath by shutting nose and mouth at the same time; the inserting of fingers in the mouth, deliberate throwing of opponent over top rope or through the ropes. In addition, the following moves or throws are strictly banned from all wrestling events:

1. all variations of the pile driver;
2. all variations of the power bomb;
3. the "moonsault", "shooting star", or "450 splash" or any variation thereof which involves one wrestler, leaping or flipping off the ropes or turnbuckles to contact the head or neck of the opponent with any part of his body;
4. the "stungun" of any variation thereof which results in the one fighter's head or neck being dragged, draped or "close-lined" across the ropes;
5. the striking of a wrestler's head with any object, chair, trashcan lid, etc., and
6. no wrestler shall throw, push, shove or force another out of the ring or over the top rope.

B. The commission official may, at his sole discretion, allow wrestlers to perform prohibited holds, moves or maneuvers listed above, provided permission is sought and obtained prior to the event by both wrestlers and the requesting wrestlers have sufficient training, athletic ability and experience to perform the maneuver without endangering one another and wrestling outside the ring is specifically prohibited.

AUTHORITY NOTE: Adopted in accordance with R.S. 4:61(D) and R.S. 4:64.

HISTORICAL NOTE: Adopted by the Department of Commerce, Boxing and Wrestling Commission, 1967, amended 1974, amended by the Office of the Governor, Boxing and Wrestling Commission, LR 45:546 (April 2019).

§513. Leaving the Ring

A. All wrestling must take place within the ropes and no wrestler shall deliberately leave the enclosed ring during the course of a bout nor shall any wrestler leave the ring in pursuit of another wrestler.

B. If a contestant crawls through the ropes or out of the ring and refuses to return at the count of ten by the referee, said contestant will be disqualified.

C. Wrestlers deliberately throwing opponents out of the ring are guilty of a foul and the referee may therefore award the exhibition to the fouled wrestler if the fouled wrestler cannot continue.

D. Any wrestler who deliberately leaves the enclosed ring during the course of an exhibition, and if the offense is repeated after once given warnings by the referee, the wrestler will be disqualified.

E. A wrestler who accidentally is forced from the ring must return to the ring by the count of 10 by the referee or be disqualified;

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:61(D) and R.S. 4:64.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Boxing and Wrestling Commission, LR 45:546 (April 2019).

§515. Health of Participants

A. Participants in all exhibitions must be properly trained and in fit physical condition to wrestle. The commission and the attending physician are to be the sole judges of such condition. If a participant is not physically fit, the commission shall refuse to permit the bout to take place; and

B. No wrestlers shall conceal from the commission or a physician acting on behalf of the commission any known illness or disability.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:61(D) and R.S. 4:64.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Boxing and Wrestling Commission, LR 45:547 (April 2019).

§517. Items Prohibited in the Ring

A. The items allowed in the ring with the fighter are limited to his costume.

B. Razors, knives or any other sharp objects in the ring are strictly prohibited.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:61(D) and R.S. 4:64.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Boxing and Wrestling Commission, LR 45:547 (April 2019).

§521. Costumes [Formerly 507]

A. Wrestlers appearing in exhibitions must be properly clothed in neat and clean apparel.

B. Masks may be used by any wrestler, but they shall be tight on the scalp and shall not impair the wrestler's vision;

C. All apparel shall be free from sharp or abrasive objects;

D. The costume shall be free from racial commentary; shall not display lewd or offensive material, and shall not have foul or inappropriate language thereon; and

E. The commission official shall be empowered to require a wrestler to either change into another costume or add clothes to an existing costume if in the representative's opinion the wrestler's costume is inappropriate.

AUTHORITY NOTE: Adopted in accordance with R.S. 4:61(D) and R.S. 4:64.

HISTORICAL NOTE: Adopted by the Department of Commerce, Boxing and Wrestling Commission, 1967, amended 1974, amended by the Office of the Governor, Boxing and Wrestling Commission, LR 45:547 (April 2019).

§523. Mats and Ropes [Formerly 509]

A. Mats shall be not less than one inch thick and must be stuffed with hair, felt, cotton or other soft material, and shall cover the entire ring platform. The mat and covering shall be clean and free from disagreeable odors at all times.

AUTHORITY NOTE: Adopted in accordance with R.S. 4:61(D) and R.S. 4:64.

HISTORICAL NOTE: Adopted by the Department of Commerce, Boxing and Wrestling Commission, 1967, amended 1974, amended by the Office of the Governor, Boxing and Wrestling Commission, LR 45:547 (April 2019).

Subchapter B. Class "B" Wrestling

§525. Wrestling Promoters Class "B" Licensing

A. There is hereby created a Class "B" wrestling license to permit promoters to promote smaller wrestling events. Wrestling promoters will not be allowed to hold both Class "A" and Class "B" licenses simultaneously.

B. There shall be no more than five Class "B" wrestling licenses issued per calendar year;

C. Class "B" licenses will be issued only to persons in good standing with the commission, who have the requisite level of trustworthiness, knowledge and experience necessary to follow the statutes and rules of the commission and experience necessary to conduct such events;

D. Once a promoter has obtained a Class "B" wrestling license, he shall be limited to promoting wrestling events at venues with a capacity of 400 persons or less, or events held in a primary or secondary school;

E. Under no circumstances will the holder of a Class "B" wrestling license be permitted to promote a show for any other person.

F. The cost for a Class "B" wrestling promoter license shall be \$250.

AUTHORITY NOTE: Promulgated in accordance with R.S.4:64, 4:65, and 4:83(B)

HISTORICAL NOTE: Promulgated by the Office of the Governor, Boxing and Wrestling Commission, LR 45:547 (April 2019).

§527. Application of Subchapter A Wrestling Rules and Exceptions

A. The conditions described specifically in Subchapter A wrestling rules also apply to Subchapter B Class "B" wrestling events, promoters and contestants and as put forth in Chapter 1. General Rules with the following exceptions.

1. No bond is required for promoters who exclusively promote Class "B" events.

2. The five percent tax of gross receipts will not be collected.

3. The appointment of a physician, emergency personnel and ambulance will not be required at Class "B" events.

4. The presence of an event coordinator or commissioner in attendance will not be required for Class "B" events.

5. The show reservation fee of \$250 will not be required for Class "B" events.

6. Class "B" promoters will not be required to purchase health insurance as required in Chapter 1. General Rules.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:83(B)

HISTORICAL NOTE: Promulgated by the Office of the Governor, Boxing and Wrestling Commission, LR 45:547 (April 2019).

§529. Submission of Documents for Class "B" Licenses

A. There shall be a Form 528(A), 528(B), and 528(C) created by the commission and posted on the commission website for the submission of requests for Class "B" shows.

B. Along with the completed Form 528(A) each promoter shall be required to submit:

1. one of the following:

a. a document from the fire marshal indicating that the venue is 400 persons or less or;

b. Form 528(B) signed by an appropriate official from the primary or secondary school where the event is to be held;

2. one of the following:

a. an insurance policy indicating that the promoter has secured a commercial liability policy in the amount of \$100,000 which will be in effect for the event; or

b. Form 528(C) indicating that the venue provides a commercial liability policy in the amount of \$100,000 which will be in effect for the event;

3. current documentation evidencing that the individual is certified in infant/child/adult CPR;

4. for each wrestler listed as participating in the event, up to date medical testing results pursuant to medical requirements of the general rules of this title, and

5. for each wrestler who has never been licensed by the commission, either:

a. a copy of a wrestling license issued by another state or jurisdiction; or

b. Form 529(A) verifying the wrestler has been cleared to participate in the event as set forth under §531. Participants.

C. Form 528(A) along with all documents set forth above shall be submitted to the commission no less than 15 days prior to the event, there shall be no exceptions to this 15 day deadline;

D. At the time of the submission of Form 528 (A) the promoter shall submit a check payable to the commission for the sum of \$50 to pay for expenses of the examination and verification of the documents and forms.

AUTHORITY NOTE: Promulgated in accordance with R.S.4:64, 4:65, 4:83, 4:83(B) and 4:83(B)(5)

HISTORICAL NOTE: Promulgated by the Office of the Governor, Boxing and Wrestling Commission LR 45:547 (April 2019).

§531. Participants

A. No person, who has not previously been licensed as a professional wrestler in the state of Louisiana, or other state or recognized jurisdiction, shall be entitled to participate in any event under this chapter;

B. A person, who has not previously been licensed for professional wrestling in the state of Louisiana, or other state or recognized jurisdiction, can obtain clearance to participate in an event under this chapter by doing the following:

1. submitting Form 529(A) to arrange an examination by the commission, which will be set at a reasonable place and time to be arranged through the commission;

a. at the examination, the commission shall determine that the applicant has the physical ability, skill and training to participate in an event;

b. if the applicant is successful, the commission shall complete Form 529(A) and issue a copy of same to the applicant;

c. if the applicant is unsuccessful, he may, within three months, apply for re-examination;

2. at the time of the submission of the 529(A) Form to the commission, the applicant shall include a cashier's check or money order in the amount of \$50 to secure the attendance of the deputy commissioner at the examination;

3. in no event shall the applicant be entitled to participate in a show within 15 days of his successful examination.

C. The commission declares that the participation of any contestant not listed on Form 528 (A) is a danger to the public health, welfare and safety requiring immediate action, and the commission may summarily suspend a promoter or wrestler's license pending a hearing, if such a violation has been committed.

AUTHORITY NOTE: Promulgated in accordance with R.S.4:64, 4:65, 4:83, 4:83(B) and 49:961

HISTORICAL NOTE: Promulgated by the Office of the Governor, Boxing and Wrestling Commission, LR 45:548 (April 2019).

§533. Promoter's Obligations

A. The promoter is obligated to the commission, the public and the participants to insure all rules and regulations of the commission are followed, except those specifically excluded by R.S. 4:83(B). In addition, the promoter shall, within 15 days of his event, send a report the commission which shall contain the following:

1. injuries suffered by any of the contestants, including but not limited to

a. cuts requiring stitches

b. broken bones

c. injuries requiring emergency medical treatment or hospitalization;

d. it shall be the duty of the promoter to include the name of the injured contestant as well as all other relevant information concerning the person's treatment, etc.,

2. injuries suffered by any of the spectators;

3. number of persons attending the event;

4. a list of any violations of the rules and regulation set forth under this title, including the name of the perpetrator(s) and the specific violation(s) committed;

5. if a promoter fails to submit this report within 15 days after the event, no approval for a new event shall be granted except by application submitted directly to the commission at one of its regular monthly meetings, at which time the promoter shall also explain the reason for his failure to timely submit his report. Multiple failure to submit timely reports may lead to suspension.

6. the commission declares that the promoter's failure to operate his event in compliance with this title, and the rules and regulation of the commission, is a potential danger to the public health, welfare and safety requiring immediate action, and the commission may summarily suspend a promoter license pending a hearing, if such a violation has been committed

AUTHORITY NOTE: Promulgated in accordance with R.S.4:64, 4:65, 4:83, 4:83(B) and 49:961

HISTORICAL NOTE: Promulgated by the Office of the Governor, Boxing and Wrestling Commission, LR 45:548 (April 2019).000 (April 2019).

Anthony "Buddy" Embanato
Chairman

1904#018

RULE

**Department of Health
Board of Medical Examiners**

Acupuncturists, Licensure and Certification; Practice
(LAC 46:XLV.Chapters 21 and 51)

In accordance with the Louisiana 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 Louisiana Medical Practice Act, R.S. 37:1270 and Louisiana law governing licensed acupuncturists, R.S. 37:1356 et seq., the board has amended its rules governing the licensing, certification and practice of licensed acupuncturists (LAC 46:XLV Chapters 21 and 51) to conform them to Act 93 of the 2018 Regular Session of the Louisiana Legislature. The amendments are set forth below. This Rule is hereby adopted on the day of promulgation.

**Title 46
PROFESSIONAL AND OCCUPATIONAL
STANDARDS**

Part XLV. Medical Professions

Subpart 2. Licensure and Certification

**Chapter 21. Acupuncturists and Acupuncture
Detoxification Specialists**

Subchapter A. General Provisions

§2103. Definitions

A. As used in this Chapter and Chapter 51, the following terms shall have the meanings specified.

Clinical Practice Guidelines or Protocols (guidelines or protocols)—Repealed.

Physical Practice Location—Repealed.

Referral Physician—Repealed.

B. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1360 and 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 19:334 (March 1993), amended LR 34:1615 (August 2008), amended by the Department of Health, Board of Medical Examiners, LR 43:1362 (July 2017), LR 45:549 (April 2019).

**Subchapter C. Licensed Acupuncturist and
Acupuncture Detoxification Specialist
Certification; Qualifications for
Supervising Physicians and Licensed
Acupuncturists**

§2111. Scope of Subchapter

A. The rules of this Subchapter prescribe the qualifications and procedures requisite to licensure as a licensed acupuncturist, certification as an acupuncture detoxification specialist, and those of a supervising physician and supervising licensed acupuncturist in the state of Louisiana.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1360 and 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 19:335

(March 1993), amended LR 34:1617 (August 2008), amended by the Department of Health, Board of Medical Examiners, LR 43:1363 (July 2017) LR 45:549 (April 2019).

**§2113. Qualifications for Licensure as a Licensed
Acupuncturist**

A. To be eligible for a license as a licensed acupuncturist, an applicant:

1 - 4. ...

5. shall meet both of the following:

a. hold active status with the National Certification Commission for Acupuncture and Oriental Medicine; and

b. have successfully passed the certification examination, including the biomedicine portion of the examination, given by the National Certification Commission for Acupuncture and Oriental Medicine or its successor.

B. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1360 and 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 19:335 (March 1993), amended LR 34 1617 (August 2008), amended by the Department of Health, Board of Medical Examiners, LR 43:1364 (July 2017), LR 45:549 (April 2019).

**§2115. Application Procedure for Licensed
Acupuncturist**

A. Application for certification as a licensed acupuncturist shall be made in a format approved by the board.

B. An application under this Subchapter shall include:

1. ...

2. attestation by the applicant certifying the truthfulness and authenticity of all information, representations, and documents contained in or submitted with the completed application; and

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

C. - F. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1360 and 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 19:336 (March 1993), amended LR 34:1618 (August 2008), amended by the Department of Health, Board of Medical Examiners, LR 43:1364 (July 2017), LR 45:549 (April 2019).

**Subchapter E. Certification, License Issuance, Approval
of Registration of Supervising Physician
or Supervising Licensed Acupuncturist,
Termination, Renewal, Reinstatement**

**§2127. Expiration and Termination of Certification and
Licensure; Modification**

A. - B. ...

C. Licensure as a licensed acupuncturist whether an initial license or renewal thereof, shall terminate and become void, null and to no effect on and as of any day that the licensed acupuncturist's license expires for failure to timely renew.

D. - D.2. Repealed.

E. - F.2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1360 and 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 19:337 (March 1993), amended LR 34:1621 (August 2008), amended by

the Department of Health, Board of Medical Examiners, LR 43:1366 (July 2017); LR 45:549 (April 2019).

§2129. Renewal of Certification and Licensure; Verification of Registration

A. Every certificate or license issued by the board under this Chapter shall be renewed annually on or before the last day of the year in which it was issued by submitting to the board a properly completed application for renewal, in a format specified by the board, together with evidence of the completion of 15 hours of accredited continuing professional education and the renewal fee prescribed in Chapter 1 of these rules.

B. - C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1360 and 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 19:337 (March 1993), amended LR 34:1621 (August 2008), amended by the Department of Health, Board of Medical Examiners, LR 43:1366 (July 2017), LR 45:550 (April 2019).

§2130. Reinstatement of Expired License

A. A license that has expired as a result of non-renewal for less than two years from the date of expiration, may be reinstated by the board subject to the conditions and procedures hereinafter provided.

B. An application for reinstatement shall be submitted in a format approved by the board and be accompanied by:

1. a statistical affidavit in a form provided by the board;
2. a recent photograph of the applicant;
3. such other information and documentation as is referred to or specified in this Chapter or as the board may require to evidence qualification for licensure; and
4. the renewal fee and delinquent fee, set forth in Chapter 1 of these rules, for each year during which the license was expired.

a. if the application is made less than one year from the date of expiration, the penalty shall be equal to the renewal fee of the license;

b. if the application is made more than one but less than two years from the date of expiration, the penalty shall be equal to twice the renewal fee of the license.

C. An individual whose license has lapsed and expired for a period in excess of two years shall not be eligible for reinstatement consideration but may apply to the board for an initial license pursuant to the applicable rules of this Chapter.

D. A request for reinstatement may be denied by virtue of the existence of any grounds for denial of licensure as provided by the Act or these rules.

E. The burden of satisfying the board as to the qualifications and eligibility of the applicant for reinstatement of the license as a licensed acupuncturist shall be on the applicant. An applicant shall not be deemed to possess such qualifications unless the applicant demonstrates and evidences such qualifications in a manner prescribed by and to the satisfaction of the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1360 and 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health, Board of Medical Examiners, LR 45:550 (April 2019).

Subchapter G. Acupuncture Advisory Committee

§2141. Constitution, Function and Responsibilities of Advisory Committee

A. ...

B. Composition. The committee shall be comprised of five members selected by the board, four of whom shall be licensed acupuncturists and one of whom shall be a physician acupuncturist. All members of the advisory committee will be licensed by the board and practice and reside in this state.

C. - D. ...

E. Functions of the Committee. The committee will provide the board with recommendations relating to:

1. - 3. ...

4. perform such other functions and provide such additional advice and recommendations as may be requested by the board.

F. - G. ...

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

HISTORICAL NOTE: Promulgated by the Department of Health, Board of Medical Examiners, LR 43:1367 (July 2017), LR 45:550 (April 2019).

Subchapter H. Continuing Education

§2149. Scope of Subchapter

A. The rules of this Subchapter provide standards for the continuing professional education required for annual renewal of a license to practice as a licensed acupuncturist, and prescribe procedures applicable to satisfaction and documentation thereof.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1360 and 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health, Board of Medical Examiners, LR 45:550 (April 2019).

§2151. Continuing Education Requirement

A. To be eligible for annual license renewal a licensed acupuncturist shall evidence and document in a format specified by the board the successful completion of 15 hours of approved continuing professional education.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1360 and 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health, Board of Medical Examiners, LR 45:550 (April 2019).

§2153. Qualifying Programs and Activities

A. To be acceptable as qualified continuing professional education under these rules, an activity or program must have significant intellectual or practical content, dealing primarily with matters related to acupuncture, and its primary objective must be to maintain or increase the participant's competence as an acupuncturist.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1360 and 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health, Board of Medical Examiners, LR 45:550 (April 2019).

§2155. Approval of Program Sponsors

A. Any education program, course, seminar or activity accredited by the National Certification Commission for Acupuncture and Oriental Medicine or its successor or recognized by the United States Department of Education shall be deemed approved by the board for purposes of qualifying as an approved continuing professional education.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1360 and 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health, Board of Medical Examiners, LR 45:550 (April 2019).

§2157. Documentation Procedure

A. A format or method specified by the board for documenting and certifying completion of continuing professional education shall be completed by licensees and returned with or as part of an annual renewal application.

B. Any continuing professional education activities not approved by the board pursuant to these rules shall be referred to the advisory committee for its evaluation and recommendations. If the committee determines that a continuing education activity does not qualify for recognition by the board or does not qualify for the number of continuing education units claimed by the applicant, the board shall give notice of such determination to the applicant for renewal. The board's decision with respect to approval and recognition of any such activity shall be final.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1360 and 37:1270(B)(6).

NOTE: HISTORICAL NOTE: Promulgated by the Department of Health, Board of Medical Examiners, LR 45:551 (April 2019).

§2159. Failure to Satisfy Continuing Education Requirements

A. An applicant for license renewal who fails to evidence satisfaction of the continuing professional education requirements shall be given written notice of such failure by the board. The license of the applicant shall remain in full force and effect for a period of 60 days following the mailing of such notice, following which it shall be deemed expired, unrenewed, and subject to revocation without further notice, unless the applicant shall have, within such 60 days, furnished the board satisfactory evidence, by affidavit, that:

1. applicant has satisfied the applicable continuing professional education requirements; or
2. applicant's failure to satisfy the continuing professional education requirements was occasioned by disability, illness, or other good cause as may be determined by the board.

B. The license of a licensed acupuncturist whose license has expired by nonrenewal or been revoked for failure to satisfy the continuing education requirements of these rules may be reinstated by the board within the time and in accordance with the procedures for reinstatement provided by these rules.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1360 and 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health, Board of Medical Examiners, LR 45:551 (April 2019).

§2161. Waiver of Requirements

A. The board may, in its discretion, waive all or part of the continuing professional education required by these rules in favor of a licensed acupuncturist who makes written request for such waiver and evidences to the satisfaction of the board a permanent physical disability, illness, financial hardship, or other similar extenuating circumstances precluding the satisfaction of the continuing professional education requirements.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1360 and 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health, Board of Medical Examiners, LR 45:551 (April 2019).

Subpart 3. Practice

Chapter 51. Physician Acupuncturists, Licensed Acupuncturists and Acupuncture Detoxification Specialist

§5105. Necessity of Certification or Licensure; Exemptions

A. No person may act as or undertake to perform or practice acupuncture or acupuncture detoxification unless he or she holds a current license, certificate or permit issued by the board. While any physician may practice acupuncture, and may apply to the board for registration to supervise an ADS, only a physician certified by the board under this Part may hold himself or herself out as a physician acupuncturist.

B. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1360 and 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 19:338 (March 1993), amended LR 34:1622 (August 2008), amended by the Department of Health, Board of Medical Examiners, LR 43:1367 (July 2017) LR 45:551 (April 2019).

§5106. Supervision of Acupuncture Detoxification Specialist

A. - A.2.f. Repealed.

B. - B.3.b. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1356-37:1360 and 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 34:1622 (August 2008), amended by the Department of Health, Board of Medical Examiners, LR 43:1368 (July 2017), LR 45:551 (April 2019).

§5107. Authority and Limitations of Licensed Acupuncturist and Acupuncture Detoxification Specialist

A. A licensed acupuncturist shall not:

1. perform, provide, attempt to perform or provide, or hold himself or herself out to the public as being capable of performing or providing any procedure, service or function required by law to be performed or provided by one possessing a certificate, registration or license other than as a LAc, in the absence of such certificate, registration or license; or

2. identify himself, or permit any other person to identify him, as "doctor" unless he designates the degree entitling such use or render any service to a patient unless the LAc has clearly identified himself as a LAc by any method reasonably calculated to advise the patient that the licensed acupuncturist is not a licensed physician.

B. - B.4. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1360 and 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 19:338 (March 1993), amended LR 34:1623 (August 2008), amended by the Department of Health, Board of Medical Examiners, LR 43:1368 (July 2017), LR 45:551 (April 2019).

§5111. Obligations and Responsibilities

A. An LAc shall:

1. report directly to the board, in writing, of the retirement or withdrawal from active practice by the LAc;

2. comply with reasonable requests by the board for personal appearances, information and documentation required by this Part relative to the functions, activities, and performance of the licensed acupuncturist;

3. - 4. ...

B. The licensed acupuncturist shall insure strict compliance with his or her obligations and responsibilities set forth in the rules of this Part.

C. - D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1360 and 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 19:338 (March 1993), amended LR 34:1624 (August 2008), amended by the Department of Health, Board of Medical Examiners, LR 43:1369 (July 2017), LR 45:551 (April 2019).

Vincent A. Culotta, Jr., M.D.
Executive Director

1904#058

RULE

Department of Health Board of Medical Examiners

Physician Assistants, Licensure and Certification; Practice
(LAC 46:XLV.Chapter 15, 4506 and 4507)

In accordance with the Louisiana 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 Louisiana Medical Practice Act, R.S. 37:1270 and Louisiana law governing Physician Assistants (PAs), R.S. 37:1360.21-1360.38, the board has amended its rules governing PAs, LAC 46:XLV Chapters 15 and 45, to conform them to Act 475 of the 2018 Regular Session of the Louisiana Legislature and to update the rules generally as made necessary by the passage of time and for consistency with current practices. The amendments are set forth below. This Rule is hereby adopted on the day of promulgation.

Title 46

PROFESSIONAL AND OCCUPATIONAL

Part XLV. Medical Professions

Subpart 2. Licensure and Certification

Chapter 15. Physician Assistants

§1503. Definitions

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

Protocol or Clinical Practice Guidelines or Clinical Practice Guidelines or Protocols—a written set of directives or instructions regarding routine medical conditions, to be followed by a physician assistant in patient care activities. If prescriptive authority has been delegated to the physician assistant by the supervising physician the clinical practice guidelines or protocols shall contain each of the components specified by §1527. The Advisory Committee shall periodically publish and disseminate to supervising physicians and all physician assistants, model forms and examples of clinical practice guidelines and protocols. The supervising physician and physician assistant shall maintain

a written copy of such clinical practice guidelines and protocols, which shall be made immediately available for inspection by authorized representatives of the board.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 4:109 (April 1978), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 17:1102 (November 1991), LR 22:201 (March 1996), LR 25:27 (January 1999), LR 31:73 (January 2005), LR 34:244 (February 2008), amended by the Department of Health, Board of Medical Examiners, LR 43:1174 (June 2017), LR 45:552 (April 2019).

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

A. ...

B. Every license issued by the board under this Chapter shall be renewed annually on or before the last day of the month in which the licensee was born, by submitting to the board an application for renewal in a format approved by the board, together with:

1. - 2. ...

3. confirmation of the completion of such continuing education as is required to maintain current NCCPA certification. A physician assistant shall maintain a record of certification of attendance for at least four years from the date of completion of the continuing education activity. Such record shall be made available to the board within thirty days of its request.

C. - F. ...

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

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 4:111 (April 1978), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 17:1104 (November 1991), LR 22:203 (March 1996), LR 24:1498 (August 1998), LR 25:31 (January 1999), LR 30:238 (February 2004), LR 34:245 (February 2008), amended by the Department of Health, Board of Medical Examiners, LR 43:1176 (June 2017); LR 45:552 (April 2019).

§1519. Reinstatement of Expired License

A. A license that has not been placed on in-active status pursuant to §1517 of these rules, which has expired as a result of non-renewal for less than two years from the date of expiration, may be reinstated by the board subject to the conditions and procedures hereinafter provided.

B. An application for reinstatement shall be submitted in a format approved by the board and be accompanied by:

1. a statistical affidavit in a form provided by the board;

2. a recent photograph of the applicant;

3. current NCCPA certification;

4. such other information and documentation as is referred to or specified in this Chapter or as the board may require to evidence qualification for licensure; and

5. the renewal fee set forth in Chapter 1 of these rules, plus a penalty computed as follows:

a. if the application is made less than one year from the date of expiration, the penalty shall be equal to the renewal fee of the license;

b. if the application is made more than one but less than two years from the date of expiration, the penalty shall be equal to twice the renewal fee of the license.

C. A physician assistant whose license has lapsed and expired for a period in excess of two years shall not be eligible for reinstatement consideration but may apply to the board for an initial license pursuant to the applicable rules of this Chapter.

D. A temporary license is not subject to reinstatement.

E. A request for reinstatement may be denied by virtue of the existence of any grounds for denial of licensure as provided by the Act or these rules.

F. The burden of satisfying the board as to the qualifications and eligibility of the applicant for reinstatement of the license as a physician assistant shall be on the applicant. An applicant shall not be deemed to possess such qualifications unless the applicant demonstrates and evidences such qualifications in a manner prescribed by and to the satisfaction of the board

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270, 37:1281, 37:1360.23, 37:1360.24 and 37:1360.26.

HISTORICAL NOTE: Promulgated by the Department of Health, Board of Medical Examiners, LR 45:552 (April 2019).

§1521. Qualifications for Physician Assistant Registration of Prescriptive Authority

A. Legend Drugs, Medical Devices and Controlled Substances. To be eligible for registration of prescriptive authority, a physician assistant shall:

1. have completed a minimum of five hundred clinical training hours prior to graduation from an approved physician assistant education program;

2. hold an active, unrestricted license to practice as a physician assistant duly issued by the board;

3. have received authority to prescribe to the extent delegated by a supervising physician; and

4. apply for a controlled dangerous substance license from the Louisiana Board of Pharmacy and register with the United States Drug Enforcement Agency, if delegated authority to prescribe Schedule II, III, IV, or V controlled substances by the supervising physician.

B. The board may deny registration of prescriptive authority to an otherwise eligible physician assistant for any of the causes enumerated by R.S. 37:1360.33, or any other violation of the provisions of the Louisiana Physician Assistant Practice Act, R.S. 37:1361.21 et seq. or its rules applicable to physician assistants.

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

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(B)(6), 1360.23(D) and (F), and 1360.31(B)(8).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 31:75 (January 2005), amended LR 38:3174 (December 2012), LR 41:925 (May 2015), amended by the Department of Health, Board of Medical Examiners, LR 43:1176 (June 2017), LR 45:553 (April 2019).

§1523. Qualifications of Supervising Physician for Registration of Delegation of Prescriptive Authority

A. Legend Drugs and Medical Devices. To be eligible for approval of registration to delegate authority to prescribe legend drugs or medical devices, or both, to a physician assistant a supervising physician shall:

1. - 2. ...

3. have prepared and signed clinical practice guidelines or protocols that comply with §1527 of these rules.

B. - D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(B)(6), 37:1360.23(D) and (F), and 37:1360.31(B)(8).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 31:76 (January 2005), amended by the Department of Health, Board of Medical Examiners, LR 43:1176 (June 2017), LR 45:553 (April 2019).

§1525. Physician Assistant Application for Registration of Prescriptive Authority; Procedure

A. Physician assistant application for registration of prescriptive authority shall be made upon forms supplied by the board and shall include:

1. ...

2. confirmation that the supervising physician has delegated prescriptive authority to the physician assistant and the nature, extent, and limits thereof, including the Schedules of any controlled substances delegated, as documented in clinical practice guidelines or protocols conforming to §1527;

A.3. - C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(B)(6), 37:1360.23(D) and (F), 37:1360.31(B)(8).

HISTORICAL NOTE: Promulgated by the Department of Health, Board of Medical Examiners, LR 31:77 (January 2005), LR 45:553 (April 2019).

§1527. Supervising Physician Application for Registration of Delegation of Prescriptive Authority; Procedure

A. Physician application for approval and registration of delegation of prescriptive authority to a physician assistant shall be made upon forms supplied by the board and shall include:

1. - 3. ...

4. confirmation that clinical practice guidelines or protocols conforming to this Section have been signed by the supervising physician and physician assistant;

A.5. - C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(B)(6), 37:1360.23(D) and (F), and 37:1360.31(B)(8).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 31:77 (January 2005), amended by the Department of Health, Board of Medical Examiners, LR 43:1177 (June 2017), LR 45:553 (April 2019).

§1529. Expiration of Registration of Prescriptive Authority; Renewal

A. Registration of prescriptive authority shall not be effective until the physician assistant receives notification of

approval from the board. Such registration and the physician assistant's prescriptive authority shall terminate and become void, null and to no effect upon the earlier of:

1. - 2. ...

3. a finding by the board of any of the causes that would render a physician assistant ineligible for registration of prescriptive authority set forth in §1521.B or a supervising physician ineligible to delegate such authority pursuant to §1523.C;

A.4. - B. ...

C. The PA, together with the SP, shall annually verify the accuracy of registration information on file with the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(B)(6), 37:1360.23(D) and (F), and 37:1360.31(B)(8).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 31:77 (January 2005), amended by the Department of Health, Board of Medical Examiners, LR 43:1177 (June 2017), LR 45:553 (April 2019).

Subpart 3. Practice

Chapter 45. Physician Assistants

§4506. Services Performed by Physician Assistants Registered to Prescribe Medication or Medical Devices; Prescription Forms; Prohibitions

A.1. - B.5. ...

C. A physician assistant who has been delegated prescriptive authority shall not:

1. ...

2. prescribe medication or medical devices:

a. - c. ...

d. in the absence of clinical practice guidelines or protocols specified by §1527;

C.2.e. - D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(B)(6), 37:1360.23(D) and (F) six, and 37:1360.31(B)(8).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 31:79 (January 2005), amended LR 41:925 (May 2015), amended by the Department of Health, Board of Medical Examiners, LR 43:1178 (June 2017), LR 45:554 (April 2019).

§4507. Authority and Limitations of Supervising Physician

A. - C.5.b. ...

D. An SP may not serve as a PSP for more than eight PAs.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(B)(6), R.S. 37:1360.23(D) and (F), and R.S. 37:1360.31(B)(8).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 4:112 (April 1978), amended LR 17:1106 (November 1991), LR 22:205 (March 1996), LR 25:32 (January 1999), LR 34:246 (February 2008), LR 38:1233 (May 2012), amended by the Department of Health, Board of Medical Examiners, LR 43:1178 (June 2017), LR 45:554 (April 2019).

Vincent A. Culotta, Jr., M.D.,
Executive Director

1904#057

RULE

Department of Health Bureau of Health Services Financing

Crisis Receiving Centers
Licensing Standards
(LAC 48:I.Chapter 96)

The Department of Health, Bureau of Health Services Financing to has amended LAC 48:I.Chapter 96 as authorized by R.S. 36:254 and R.S. 40:2100-2115. This proposed Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq. This Rule is hereby adopted on the day of promulgation.

The Department of Health, Bureau of Health Services Financing proposes to amend the provisions governing the licensing of hospital crisis receiving centers in order to adopt provisions to allow free-standing psychiatric hospitals which do not have dedicated emergency departments (EDs) to designate crisis receiving center-specialty units (CRC-SUs) as EDs for patients in need of psychiatric crisis treatment, if the CRC-SU meets all of the same regulations as a hospital ED. This Rule is hereby adopted on the day of promulgation.

Title 48

PUBLIC HEALTH—GENERAL

Part I. General Administration

Subpart 3. Licensing and Certification

Chapter 96. Hospitals—Crisis Receiving Centers

Subchapter A. General Provisions

§9601. Introduction

A. A hospital crisis receiving center is a specialty unit of a hospital that provides health care services to individuals who are experiencing a behavioral health crisis.

B. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2100-2115.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 36:513 (March 2010), amended by the Department of Health, Bureau of Health Services Financing, LR 45:554 (April 2019).

§9603. Licensure Requirements

A. All crisis receiving center specialty units shall be licensed by the department and shall comply with the provisions of §9333 of these hospital licensing standards.

B. A crisis receiving center specialty unit (CRC-SU) shall have approval from the Office of Behavioral Health (OBH) and/or the appropriate human service district or authority before applying to become licensed as part of the hospital.

C. Prior to securing licensure and operating the CRC-SU, the hospital shall submit architectural plans of the CRC-SU to the Office of the State Fire Marshal (OSFM) for licensing approval.

D. - F. ...

G. If the CRC-SU is located at an offsite campus or is at a free-standing psychiatric hospital which does not have a

dedicated emergency department, the CRC-SU shall be considered a dedicated emergency department. The CRC-SU shall comply with all EMTALA regulations if the unit meets one of the following criteria:

1. the entity is licensed by the state as an emergency department of the hospital;

2. - 3. ...

H. The following levels of a CRC-SU may be licensed as an optional service of the hospital:

1. Level I CRC-SU only; or

2. Level I CRC-SU and Level II CRC-SU.

I. A CRC-SU shall maintain compliance with the:

1. Office of Public Health (OPH) regulations; and

2. Office of State Fire Marshal regulations.

3. Repealed.

J. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2100-2115.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 36:513 (March 2010), amended by the Department of Health, Bureau of Health Services Financing, LR 45:554 (April 2019).

§9605. Licensing Process

A. The hospital shall submit the following items to the department in order to add a CRC-SU to its existing license:

1. ...

2. the required licensing fee, if applicable;

3. a copy of the prerequisite approval from OBH and/or the appropriate human service district or authority; and

4. other documentation as required by the department, including a current Office of Public Health (OPH)/Sanitation approval and Office of State Fire Marshal approval for occupancy and licensing plan review.

B. - C. ...

1. The sub-license/certificate shall designate the level of the CRC-SU and the licensed capacity of the CRC-SU.

C.2. - E. ...

F. The sub-license/certificate shall be valid only for the designated geographic location and shall be issued only for the person/premises named in the application. The geographic location of the CRC-SU shall not be moved, changed, or relocated without notification to HSS, approval by HSS, and the re-issuance of the sub-license/certificate.

G. The department may conduct on-site surveys and inspections at the CRC-SU as necessary to ensure compliance with these licensing standards.

H. Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2100-2115.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 36:513 (March 2010), amended by the Department of Health, Bureau of Health Services Financing, LR 45:555 (April 2019).

§9607. Discharges, Referrals or Transfers

A. Patients who are discharged home from the CRC-SU shall be given verbal and written discharge instructions and any referral information, including information for appointments regarding follow-up care and treatment.

B. - C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2100-2115.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 36:514 (March 2010), amended by the Department of Health, Bureau of Health Services Financing, LR 45:555 (April 2019).

§9609. Training Requirements

A. A CRC-SU shall ensure that all staff providing direct patient care has documentation of successful completion of crisis services and intervention training in accordance with this Chapter.

B. Crisis services and intervention training shall include, but is not limited to the following:

1. an organized training program that includes an initial 40 hours of training to be completed upon hire and a minimum of 12 hours of training to be completed annually thereafter. Required training includes, but is not limited to the following areas:

a. - j. ...

k. an overview of mental illness and substance abuse diagnoses and treatment;

l. - n. ...

o. confidentiality and Health Insurance Portability and Accountability Act (HIPAA) regulations; and

p. ...

C. All formal training shall be provided by a licensed mental health professional (LMHP) or other qualified licensed behavioral health personnel with extensive experience in the field in which they provide training. Nonviolent physical interventions shall be taught by a trainer with documented current certification by a nationally established crisis intervention program (e.g. Crisis Prevention and Intervention, Tactical Crisis Intervention, Crisis Intervention Training, etc.).

1. An LMHP is an individual who is currently licensed to practice independently and in good standing in the state of Louisiana to practice within the scope of all applicable state laws, practice acts, and the individual's professional license, as one of the following:

a. medical psychologist;

b. licensed psychologist;

c. licensed clinical social worker (LCSW);

d. licensed professional counselor (LPC);

e. licensed marriage and family therapist (LMFT);

f. licensed addiction counselor (LAC);

g. advance practice registered nurse (APRN); or

h. licensed rehabilitation counselor (LRC).

D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2100-2115.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 36:514 (March 2010), amended by the Department of Health, Bureau of Health Services Financing, LR 45:555 (April 2019).

Subchapter B. Level I Crisis Receiving Centers

§9615. General Provisions

A. ...

B. The length of a patient stay for a Level I CRC-SU shall not exceed 24 hours, unless there is documented evidence of the CRC-SU's measures taken to transfer the patient to the appropriate level of needed care and the reasons the transfer of the patient exceeds 24 hours.

C. Services required of a Level I CRC-SU include, but are not limited to:

1. - 2. ...
3. assessment services, including medication management;
4. brief intervention and stabilization; and
5. ...

D. The Level I CRC-SU shall develop and implement policies and procedures for instituting an increased level of supervision for patients at risk for suicide and other self-injurious behaviors.

E. - F. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2100-2115.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 36:514 (March 2010), amended by the Department of Health, Bureau of Health Services Financing, LR 45:555 (April 2019).

§9617. Level I Services

A. - B.3. ...

4. The triage/screening shall include:
 - a. - e. ...
 - f. a medical screening including at a minimum, vital signs and a medical history, as soon as the patient's condition permits.
5. The triage/screening shall be conducted by licensed professionals in the medical or behavioral health fields that have the training and experience to triage/screen individuals for both behavioral and medical emergent needs in accordance with the scope of practice of their licensed discipline.

B.6. - C.2. ...

3. The assessment shall be initiated within two hours of the triage/screening evaluation and shall include:
 - a. a full psychiatric assessment;
 - b. - c. ...
4. A full psychiatric assessment shall include:
 - a. patient interviews by board certified/eligible licensed psychiatrist(s) or psychiatric nurse practitioner(s) trained in emergency psychiatric assessment and treatment;
 - b. a review of the medical and psychiatric records of current and past diagnoses, treatments, medications and dose response, side-effects and compliance, if available;
 - c. contact with current behavioral health providers whenever possible;
 - d. - g. ...
 - h. a detailed assessment of substance use, abuse, and misuse; and
 - i. an assessment for possible abuse and neglect; such assessment shall be conducted by an LMHP trained in how to conduct an assessment to determine abuse and neglect. The CRC-SU shall ensure that every patient is assessed for sexual, physical, emotional, and verbal abuse and/or neglect.

5. All individuals shall be seen by a licensed psychiatrist or a licensed APRN within eight hours of the triage/screening. The board certified/eligible psychiatrist or APRN shall formulate a preliminary psychiatric diagnosis based on review of the assessment data collected.

a. The APRN must be a nurse practitioner specialist in adult psychiatric and mental health, family psychiatric and mental health, or a certified nurse specialist in psychosocial, gerontological psychiatric mental health, adult psychiatric and mental health, or child-adolescent mental health and

may practice to the extent that services are within the APRN's scope of practice.

6. A physical health assessment shall be conducted by a licensed physician, licensed advanced nurse practitioner, or a licensed physician's assistant and shall include the following:

a. - d. ...

e. pregnancy test in all women of child-bearing age, as applicable;

f. - h. ...

7. Repealed.

D. Brief Intervention and Stabilization

1. If an assessment reveals that immediate stabilization services are required, the Level I CRC-SU shall provide behavioral health interventions and stabilization which may include the use of psychotropic medications.

2. Following behavioral health interventions and stabilization measures, the Level I CRC-SU shall assess the patient to determine if referral to community based behavioral health services is appropriate or a higher level of care is required.

E. Linking/Referral Services

1. If an assessment reveals a need for emergency or continuing care for a patient, the Level I CRC-SU shall make arrangements to place the patient into the appropriate higher level of care. Patients in a Level I CRC-SU shall be transitioned out of the Level I CRC-SU within 24 hours unless there is documented evidence of the CRC-SU's measures taken to transfer the patient to the higher level of needed care and the reasons the transfer of the patient exceeds 24 hours.

2. If the assessment reveals no need for a higher level of care, the Level I CRC-SU shall provide:

a. referrals, and make appointments where possible, to appropriate community-based behavioral health services for individuals with developmental disabilities, addiction disorders, and mental health issues; and

b. brief behavioral health interventions to stabilize the crises until referrals to appropriate community-based behavioral health services are established or contact is made with the individual's existing provider and a referral is made back to the existing provider in the form of a follow-up appointment or other contact.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2100-2115.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 36:515 (March 2010), amended by the Department of Health, Bureau of Health Services Financing, LR 45:556 (April 2019).

§9619. Staffing Requirements

A. - B.2. ...

C. A Level I CRC-SU shall have the following staff on call at all times and available to be onsite at the CRC-SU within one hour and who meets the following criteria:

1. is a licensed mental health professional (LMHP) who has one year of documented crisis services and intervention experience; or

a. - c. Repealed.

C.2. - E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2100-2115.

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

36:516 (March 2010), amended by the Department of Health, Bureau of Health Services Financing, LR 45:556 (April 2019).

§9621. Physical Environment

A. - C. ...

D. Interior finishes, lighting, and furnishings shall conform to applicable fire safety codes. Security and safety devices shall not be presented in a manner to attract or challenge tampering by patients.

E. Grab bars, if provided, shall meet the following specifications:

1. - 2. ...

3. shall be securely fastened with tamper-proof screw heads;

4. ...

5. if mounted adjacent to a wall, the space between the wall and the grab bar shall be filled completely to prevent a cord or string being tied around the grab bar and used for hanging.

F. Towel racks, closet and shower curtain rods are not permitted.

G. - M.2....

3. The doors on the bathroom/toilet rooms shall swing out or be double hinged.

M.4. - O. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2100-2115.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 36:516 (March 2010), amended by the Department of Health, Bureau of Health Services Financing, LR 45:556 (April 2019).

Subchapter C. Level II Crisis Receiving Centers

§9631. General Provisions

A. A Level II CRC-SU is an intermediate level of care unit that provides for:

1. - 5. ...

6. an appropriate referral and coordination of care for extended services as necessary.

B. - E. ...

F. The licensed capacity in a Level II CRC-SU shall not be licensed as hospital beds and shall not be counted in the aggregate number of licensed hospital beds.

G. - K.1. ...

L. The Level II CRC-SU shall develop and implement policies and procedures for instituting an increased level of supervision for patients at risk for suicide and other self-injurious behaviors.

M. - M.1. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2100-2115.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 36:517 (March 2010), amended by the Department of Health, Bureau of Health Services Financing, LR 45:557 (April 2019).

§9633. Level II Services

A. In addition to the services required in §9617 of this Chapter, the Level II CRC-SU shall provide the following services.

1. - 3.c. ...

4. The Level II CRC-SU shall conduct a psychosocial assessment on each patient within 24 hours of admission. This assessment shall be conducted by a licensed LMHP

who has one year of documented crisis services and intervention experience.

a. - a.iii. Repealed.

5. - 5.g. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2100-2115.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 36:518 (March 2010), amended by the Department of Health, Bureau of Health Services Financing, LR 45:557 (April 2019).

§9635. Staffing Requirements

A. - A.1. ...

2. The Level II CRC-SU shall have sufficient numbers and types of qualified staff on duty and available at all times to provide necessary care, services, treatment and safety, based on the acuity of the patients, the mix of the patients present in the CRC-SU, the need for extraordinary levels of care and to meet the needs of the patient throughout the length of any patient stay in the CRC-SU.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2100-2115.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 36:518 (March 2010), amended by the Department of Health, Bureau of Health Services Financing, LR 45:557 (April 2019).

§9637. Physical Environment

A. - F. ...

G. Bathrooms

1. The Level II CRC-SU shall have a minimum of two bathrooms that contain all of the following:

a. - c.i. ...

2. If the Level II CRC-SU has more than a capacity for 12 patients, there shall be one additional bathroom for each additional capacity for four patients.

3. - 4. ...

H. The Level II CRC-SU shall have a separate bathroom and a break room designated for staff use.

I. Separate and apart from the seclusion room required in a Level I CRC-SU, the Level II CRC-SU shall have a minimum of one seclusion room for each capacity for 12 patients.

1. - 2. ...

J. The Level II CRC-SU shall have separate consultation room(s) with a minimum floor space of 100 square feet each, provided at a room-to-bed ratio of one consultation room for each capacity for 12 patients. Consultation rooms within the unit shall be available for use for interviews with the patient and/or their families. The consultation room(s) shall be designed for acoustical and visual privacy.

K. - M. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2100-2115.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 36:518 (March 2010) amended by the Department of Health, Bureau of Health Services Financing, LR 45:557 (April 2019).

Rebekah E. Gee MD, MPH
Secretary

1904#071

RULE

Department of Health Office for Citizens with Developmental Disabilities

Community and Family Support System—Flexible Family Fund (LAC 48:I.Chapter 161)

Under the authority of R.S. 40:4 and 40:5, and in accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that, the Louisiana Department of Health, Office for Citizens with Developmental Disabilities (LDH-OCDD), hereby amends LAC 48:II.Chapter 161 in the Community and Family Support System. The amendment sets forth recommended changes as requested by the Developmental Disabilities Council. The Rule adds two qualifying exceptionalities; allows for evaluations by a licensed professional for all qualifying exceptionalities; removes financial criteria that disqualifies a child who has a Medicaid waiver and whose parent earns 650 percent above poverty; removes requirement that children are actively attending approved educational setting; adds additional requirements prior to termination from the program; allows for the Flexible Family Fund (FFF) stipend to continue during appeals; adds additional FFF application methods and updates language from ‘mental disability’ to ‘intellectual disability’. This Rule is hereby adopted on the day of promulgation.

Title 48

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part II. Public Health

Subpart 11. Community and Family Support System

Chapter 161. Community and Family Support System—Flexible Family Fund

§16101. Introduction

A. The first and primary natural environment for all people is the family. Children, regardless of the severity of their disability, need families and enduring relationships with adults in a nurturing home environment. As with all children, children with developmental disabilities need families and family relationships to develop to their fullest potential. Services for persons with developmental disabilities should be responsive to the needs of the individual and the individual’s family, rather than fitting the person into existing programs. Flexible Family Fund assists families in keeping their child with a severe developmental disability at home.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:821 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary and the Department of Social Services, Office of the Secretary, LR 18:186 (February 1992), repromulgated LR 33:1135 (June 2007), amended by the Department of Health and Hospitals, Office of the Secretary and the Department of Children and Family Services, Office of the Secretary, LR 37:2584 (September 2011), amended the Department of Health, Office for Citizens with Developmental Disabilities, LR 45:558 (April 2019).

§16103. Definitions

Child—an individual under the age of 18.

Developmental Disability—defined in accordance with the Developmental Disability Law at R.S. 28:451.2(12).

Emotional Disturbance Severity Screening Instrument—a tool selected and used by the Local Governing Entity (LGE) providing behavioral health services for the purposes of determining if the individual meets severity criteria to receive the Flexible Family Fund for the exceptionality of emotional disturbance.

Exceptionality—all disabilities identified under Individuals with Disabilities Education Act (IDEA), including gifted and/or talented as defined in state law.

Family—the basic family unit consists of one or more adults and children related by blood, marriage or adoption, and who reside in the same household.

Flexible Family Fund (formerly Cash Subsidy Program)—a monetary stipend paid to families of eligible children to assist in keeping their child with a severe disability at home.

Independent Education Evaluation (IEE)—an evaluation conducted by a qualified examiner not employed by the local education agency (LEA) responsible for the education of the child as a substitute for the evaluation of the child obtained by the LEA in the event a parent disagrees with the LEA’s evaluation.

Individualized Education Program (IEP)—a written statement for a child with a disability that is developed, reviewed, and revised in accordance with 34 C.F.R. 300.324 through 34 C.F.R. 300.328.

Intellectual/Developmental Disabilities (IDD) Screening Checklist—a tool used by the Local Governing Entity (LGE) for applicants of Flexible Family Fund, who have a qualifying exceptionality, to determine if the child meets the definition of Developmental Disability in accordance with R.S. 28:451.2(12).

Intellectual/Developmental Disabilities Severity Screening Instrument—a tool used by the LGE for applicants for the Flexible Family Fund, who have a qualifying exceptionality and have met the criteria on the Intellectual / Developmental Disabilities (IDD) Screening Checklist, to screen the degree of limitation and impact of the child’s developmental disability on the child’s functioning.

Licensed Health Professional—a person credentialed to provide health services by a professional board established and approved by the state of Louisiana, including those boards which examine physicians, psychiatrists, psychologists, social workers, counselors, nurse practitioners, etc.

Local Education Agency (LEA)—a public board of education or other public authority legally constituted within Louisiana for administrative control and direction of or to perform a service function for public elementary or secondary schools in a city, parish, or other local public school district or other political subdivision. The term includes an education service agency and special schools and school districts as that term is used in R.S. 17:1945 and any other public institution or agency having administrative control and direction of a public elementary or secondary school.

Local Governing Entity (LGE)—a human services district or authority with local accountability and management of behavioral health, intellectual disability, and developmental disability services. There are 10 LGEs, each responsible for a geographic region within the state.

Office of Behavioral Health (OBH)—the office within the Department of Health charged with performing the functions of the state which oversee services and continuity of care for the prevention, detection, treatment, rehabilitation, and follow-up care of mental and emotional illness in Louisiana and performing functions related to mental health. It is also charged with performing the functions of the state relating to the care, training, treatment, and education of those suffering from substance-related or addictive disorders and the prevention of substance-related and addictive disorders and administering the substance-related and addictive disorders programs in the state.

Office for Citizens with Developmental Disabilities (OCDD)—the office within the Department of Health that is responsible for the programs and functions of the state relating to the care, training, treatment, and education of people diagnosed with intellectual and developmental disabilities.

Qualifying Exceptionality—exceptionalities which have been identified as meeting the criteria to be considered for the Flexible Family Fund. A qualifying exceptionality is one of the following:

1. autism;
2. deaf-blindness (deaf and blind);
3. intellectual disability—severe;
4. intellectual disability—moderate with a behavior intervention or individual healthcare plan;
5. intellectual disability—mild with a behavior intervention or individual healthcare plan;
6. multiple disabilities;
7. orthopedic impairment;
8. other health impaired;
9. traumatic brain injury;
10. developmentally delayed for children ages three through eight years;
11. emotional disturbance (for Flexible Family Fund administered by the local governing entity providing behavioral health services);
12. EarlySteps eligibility for children until the age of three may also be considered for Flexible Family Fund.

Responsible Caregiver—a child's natural or adoptive mother or father, legal, testamentary, or dative tutor, or the person who is legally responsible, but not financially compensated, to act as caregiver for the primary care and management of the child.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:821 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary and the Department of Social Services, Office of the Secretary, LR 18:186 (February 1992), amended LR 23:862 (July 1997), LR 28:1019 (May 2002), LR 33:1135 (June 2007), amended by the Department of Health and Hospitals, Office of the Secretary and the Department of Children and Family Services, Office of the Secretary, LR 37:2584 (September 2011), LR 40:1523 (August 2014), amended the Department of Health, Office for Citizens with Developmental Disabilities, LR 45:558 (April 2019).

§16105. Application Process

A. Applications for flexible family fund will be accepted by email, fax, mail and in person in the office of the local governing entity (LGE) for the region in which the child resides. There is no closing date for accepting applications.

B. The responsible caregiver is responsible for completing the application and submitting all required documentation related to the application.

C. Applications will be maintained on the waiting list by date/time order of application, only in the region in which the child lives; no child may be placed on a waiting list or receive a flexible family fund from more than one region or agency.

D. For the developmental disabilities exceptionalities, a completed application must be submitted with appropriate documentation for a qualifying exceptionality. Appropriate documentation includes one of the following:

1. the most recent, current within a year individualized family services plan (IFSP) (for EarlySteps eligibility for infants and toddlers until age three);
2. the most recent report, current within a year, from the Louisiana Department of Education (LDOE) special school programs pupil appraisal services showing the child's condition meets LDOE Bulletin 1508 criteria for one of the qualifying exceptionalities;
3. the most recent, current within a year, signed by school staff and parent/guardian individualized education plan (IEP) listing the child's exceptionality as one of the qualifying exceptionalities;
4. a report, current within a year, from a licensed health professional which states that a child's condition conforms to standards established in the LDOE Bulletin 1508 for one of the qualifying exceptionalities;
5. a current, within a year independent education evaluation (IEE) which states that a child's condition conforms to standards established in the LDOE Bulletin 1508 for one of the qualifying exceptionalities;
6. a current, within a year approved home study plan with a current within three years LDOE special school programs pupil appraisal services report showing the child's condition meets LDOE Bulletin 1508 criteria for one of the qualifying exceptionalities; or
7. an annual individual plan, current within a year, signed by school staff and parent/guardian, listing the child's exceptionality, created by schools approved by the LDOE to provide educational services to children with one of the qualifying exceptionalities, e.g., The school choice program for certain students with exceptionalities; or

E. For the exceptionality of emotional disturbance, a completed application must be submitted with the appropriate documentation of an emotional disturbance. Appropriate documentation includes one of the following:

1. a current treatment plan from a licensed community behavioral health center or evidence of an interagency service coordination process;
2. the most recent report, current within a year, from the LDOE special school programs pupil appraisal service showing the child's condition meets LDOE Bulletin 1508 criteria for emotional disturbance;
3. the most recent, current within a year, signed by school staff and parent/guardian IEP listing the child's exceptionality as emotional disturbance or its equivalent;
4. a report, current within a year, from a licensed health professional which states that a child's condition conforms to standards established in the LDOE Bulletin 1508 for emotional disturbance or its equivalent;

5. a current, within a year IEE which states that a child's condition conforms to standards established in the LDOE Bulletin 1508 for emotional disturbance or its equivalent;

6. a current, within a year approved home study plan with a current within three years LDOE special school programs pupil appraisal services report showing the child's condition meets LDOE Bulletin 1508 criteria for emotional disturbance or its equivalent; or

7. for a student who has been evaluated by a LEA, determined to have an exceptionality of emotional disturbance, and is deemed eligible to participate in the school of choice program for certain students with exceptionalities, an IEP or a services plan for any service in accordance with 34 CFR 300.37 or a nonpublic school created plan resulting from a determination of the evaluation of the student by a LEA that the student requires services for emotional disturbance.

F. The responsible caregiver shall provide appropriate documentation of a qualifying exceptionality annually in order for the child to maintain eligibility for the flexible family fund waiting list.

G. A new application can be submitted at any time a flexible family fund is terminated or denied for any reason other than exceeding the eligible age for participation in the flexible family fund.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:821 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary and the Department of Social Services, Office of the Secretary, LR 18:186 (February 1992), amended LR 23:862 (July 1997), LR 28:1020 (May 2002), LR 33:1136 (June 2007), amended by the Department of Health and Hospitals, Office of the Secretary and the Department of Children and Family Services, Office of the Secretary, LR 37:2585 (September 2011), LR 40:1523 (August 2014), amended the Department of Health, Office for Citizens with Developmental Disabilities, LR 45:559 (April 2019).

§16107. Determining Children Eligible for the Flexible Family Fund

A. The local governing entity (LGE) shall be responsible for determination of eligibility of all applicants for the flexible family fund for which they have responsibility.

B. To be found eligible for the flexible family fund on the basis of a qualifying intellectual/developmental disability exceptionality, four criteria must be satisfied:

1. A complete, signed application must be submitted;
2. The qualifying documentation must be submitted;
3. The child must meet the established criteria on the intellectual/developmental disabilities (IDD) screening checklist; and
4. The child must meet the established level of severity as measured by the intellectual/developmental disabilities severity screening instrument that is specified in the LGE's policy manual.

C. To be found eligible for the flexible family fund on the basis of the qualifying exceptionality of emotional disturbance, the following criteria must be satisfied:

1. a complete, signed application must be submitted;
2. the qualifying documentation must be submitted; and
3. the child must meet the established level of severity, specific to the exceptionality of emotional

disturbance as measured by the emotional disturbance severity screening instrument that is specified in the LGE's policy manual.

D. A redetermination for eligibility will occur annually.

E. If at any time during the initial determination of eligibility, the responsible caregiver requests a re-evaluation by the local education agency (LEA) or licensed health provider of the child's exceptionality, the eligibility determination process will be held open for the re-evaluation plus 10 working days. Upon a determination of eligibility, flexible family funds will begin in the month that the next opportunity becomes available.

F. If at any time during the annual determination of eligibility, the responsible caregiver requests a re-evaluation by the LEA or licensed health provider, the child will maintain his or her slot for flexible family funds, but the monthly stipend will be put on hold until the re-evaluation becomes available plus 10 working days. Upon a determination of eligibility, flexible family funds will resume in the month the determination is made. Upon determination of ineligibility, flexible family fund will be terminated according to §16111, Terminations.

G. Families with adopted children may also be eligible to participate in the flexible family fund. Families with adopted children who receive a specialized adoption subsidy are not eligible to participate in the flexible family fund; families who have more than one child who are eligible to participate in the Flexible family fund will be eligible for the flexible family fund amount for each qualifying child.

H. Children who receive a home and community-based services waiver are eligible to participate in the flexible family fund.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:821 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary and the Department of Social Services, Office of the Secretary, LR 18:186 (February 1992), amended LR 23:863 (July 1997), LR 28:1020 (May 2002), LR 33:1136 (June 2007), amended by the Department of Health and Hospitals, Office of the Secretary and the Department of Children and Family Services, Office of the Secretary, LR 37:2586 (September 2011), LR 40:1523 (August 2014), amended the Department of Health, Office for Citizens with Developmental Disabilities, LR 45:560 (April 2019).

§16109. Payment Guidelines

A. The amount of the flexible family fund shall be \$258 monthly to families of eligible children with severe disabilities to assist them in keeping their child at home; families may be asked to complete a survey periodically indicating how the flexible family funds are used to assist in keeping their child at home.

B. The termination date for a child attaining age 18 years shall be the last day of the birthday month.

C. If for any reason a recipient receives excess flexible family funds, the agency may follow-up with recoupment of funds.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:821 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary and the Department of Social Services, Office of the Secretary, LR 18:188 (February 1992), amended LR 23:864 (July 1997), LR 28:1021 (May 2002), LR 33:1137 (June 2007), amended by the Department of Health and Hospitals, Office of the Secretary and the Department of

Children and Family Services, Office of the Secretary, LR 37:2587 (September 2011), LR 40:1524 (August 2014), amended the Department of Health, Office for Citizens with Developmental Disabilities, LR 45:560 (April 2019).

§16111. Terminations

A. Reasons for termination may include the following:

1. the responsible caregiver establishes residency or domicile outside Louisiana;
2. family requests termination of the flexible family fund stipend;
3. child is placed into a subsidized living setting or resides in a school away from the home or in another state;
4. death of the child;
5. fraud;
6. termination or limitation of funding of the program;
7. failure to comply with the provisions of the individual agreement or the flexible family fund, including the requirement to maintain quarterly contact with the LGE administering the flexible family fund and the requirement to provide required documentation;
8. child's exceptionality or degree of severity no longer meets eligibility criteria; or
9. child attains age 18 years;

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:821 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary and the Department of Social Services, Office of the Secretary, LR 18:188 (February 1992), amended LR 23:864 (July 1997), LR 28:1022 (May 2002), LR 33:1137 (June 2007), amended by the Department of Health and Hospitals, Office of the Secretary and the Department of Children and Family Services, Office of the Secretary, LR 37:2587 (September 2011), LR 40:1524 (August 2014), amended the Department of Health, Office for Citizens with Developmental Disabilities, LR 45:561 (April 2019).

§16113. Ongoing Monitoring

A. The responsible caregiver is responsible for maintaining contact with the LGE administering the flexible family fund at least every 90 days to verify that the child is in the home and the conditions of the individual agreement and flexible family fund are being met.

B. Such quarterly contact shall be accepted by mail, email, fax, face-to-face meetings and telephone provided the responsible caregiver attests that the conditions of eligibility continue to be in effect. Failure to report significant changes in the child's status as described in §16111 may result in disqualification of the child to participate in the flexible family fund.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:821 et seq.

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§16115. Appeals

A. All persons receiving an adverse eligibility determination shall have the right to request a fair hearing from the Division of Administrative Law. Upon being terminated from Flexible Family Fund, the family will receive written notification of closure. The closure letter will

include information about their right of appeal and the process to make an appeal at the point of initial eligibility determination and at termination of a Flexible Family Fund for any reason other than exceeding the eligible age for participation in the program. Flexible Family Fund stipends will continue for the duration of any appeal proceeding, unless a recipient is terminated for exceeding the eligible age for participation in the program.

B. The local governing entity (LGE) will prepare a summary of evidence upon being notified of an appeal.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:821 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary and the Department of Social Services, Office of the Secretary, LR 18:188 (February 1992), amended LR 23:865 (July 1997), LR 28:1022 (May 2002), LR 33:1137 (June 2007), amended by the Department of Health and Hospitals, Office of the Secretary and the Department of Children and Family Services, Office of the Secretary, LR 37:2587 (September 2011), amended the Department of Health, Office for Citizens with Developmental Disabilities, LR 45:561 (April 2019).

Cindy Rives
Undersecretary

1904#007

RULE

Department of Health Bureau of Health Services Financing and Office of Behavioral Health

School-Based Health Services
(LAC 50:XV.Chapter 95 and XXXIII.Chapter 41)

The Department of Health, Bureau of Health Services Financing and the Office of Behavioral Health have amended LAC 50:XV.Chapter 95 and XXXIII.Chapter 41 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq. This Rule is hereby adopted on the day of promulgation.

Title 50

PUBLIC HEALTH-MEDICAL ASSISTANCE

Part XV. Services for Special Populations

Subpart 5. Early and Periodic Screening, Diagnosis, and Treatment

Chapter 95. School-Based Health Services

Subchapter A. School-Based Medicaid Medical Direct Services

§9501. General Provisions

A. EPSDT school-based medical services are provided pursuant to an individualized service plan (IEP), a section 504 accommodation plan, an individualized health care plan, an individualized family service plan, or are otherwise medically necessary services provided by a licensed medical provider (physician, optometrist, respiratory therapist, registered nurse, licensed practical nurse, dentist, dental hygienist and chiropractor) within a local education agency (LEA). The goal of these services is to prevent or mitigate disease, enhance care coordination, and reduce costs by preventing the need for tertiary care. Providing these

services in the school increases access to health care for children and youth resulting in a more efficient and effective delivery of care.

B. All medical service providers providing school-based medical services are required to maintain an active license that is necessary for the applicable service with the state of Louisiana.

C. School-based medical services shall be covered for all recipients in the school system who are eligible.

D. Repealed.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 39:2760 (October 2013), amended by the Department of Health, Bureau of Health Services Financing, LR 42:1298 (August 2016), LR 45:561 (April 2019).

§9503. Covered Services

A. The following school-based medical services shall be covered.

1. Chronic Medical Condition Management and Care Coordination. This is care based on one of the following criteria.

a. The child has a chronic medical condition or disability requiring implementation of a health plan/protocol (examples would be children with asthma, diabetes, or cerebral palsy). There must be a written health care plan based on a health assessment performed by the medical services provider. The date of the completion of the plan and the name of the person completing the plan must be included in the written plan. Each health care service required and the schedule for its provision must be described in the plan.

b. Medication Administration. This service is scheduled as part of a health care plan developed by either the treating physician or the school district LEA. Administration of medication will be at the direction of the physician and within the license of the individual provider and must be approved within the district LEA policies.

c. Implementation of Physician's Orders. These services shall only be provided as a result of receipt of a written plan of care from the child's physician or included in the student's IEP, IHP, 504 plan, IFSP or are otherwise medically necessary for students with disabilities.

d. Repealed.

2. Immunization Assessments. These services are nursing assessments of health status (immunizations) required by the Office of Public Health. This service requires a medical provider to assess the vaccination status of children in these cohorts once each year. This assessment is limited to the following children:

- a. children enrolling in school for the first time;
- b. pre-kindergarten children;
- c. kindergarten children;
- d. children entering sixth grade; or
- e. any student 11 years of age regardless of grade.

3. EPSDT Program Periodicity Schedule for Screenings. Qualified individuals employed by a school district may perform any of these screens within their licensure. The results of these screens must be made available as part of the care coordination plan of the district. The screens shall be performed according to the periodicity schedule including any inter-periodic screens.

a. - e. Repealed.

4. EPSDT Medical/Nursing Assessment/Evaluation Services. A licensed health care provider employed by a school district may perform care services to protect the health status of children and correct health problems. These services may include health counseling and triage of childhood illnesses and conditions.

a. Consultations are to be face-to-face contact in one-on-one sessions. These are services for which a parent would otherwise seek medical attention at physician or health care provider's office. This service is available to all Medicaid individuals eligible for EPSDT.

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 39:2760 (October 2013), amended by the Department of Health, Bureau of Health Services Financing, LR 45:562 (April 2019).

§9505. Reimbursement Methodology

A. Payment for EPSDT school-based medical services shall be based on the most recent school year's actual cost as determined by desk review and/or audit for each LEA provider.

1. Each LEA shall determine cost annually by using LDH's cost report for medical service cost form based on the direct services cost report.

2. Direct cost shall be limited to the amount of total compensation (salaries, vendor payments and fringe benefits) of current medical service providers as allocated to medical services for Medicaid recipients. The direct cost related to the electronic health record shall be added to the compensation costs to arrive at the total direct costs for medical services. There are no additional direct costs included in the rate.

3. Indirect cost shall be derived by multiplying the cognizant agency indirect cost unrestricted rate assigned by the Department of Education to each LEA by the allowable costs. There are no additional indirect costs included.

4. To determine the amount of medical services cost that may be attributed to Medicaid; the ratio of total Medicaid students in the LEA to all students in the LEA is multiplied by total direct cost. Cost data is subject to certification by each LEA. This serves as the basis for obtaining federal Medicaid funding.

B. For the medical services, the participating LEAs' actual cost of providing the services shall be claimed for Medicaid federal financial participation (FFP) based on the following methodology.

1. ...

2. Develop Direct Cost—The Payroll Cost Base. Total annual salaries and benefits paid, as well as contracted (vendor) payments, shall be obtained initially from each LEA's payroll/benefits and accounts payable system. This data shall be reported on LDH's medical services cost report form for all medical service personnel (i.e. all personnel providing LEA medical treatment services covered under the state plan).

3. ...

4. Determine the Percentage of Time to Provide All Medical Services. A time study which incorporates the CMS-approved Medicaid administrative claiming (MAC) methodology for nursing service personnel shall be used to determine the percentage of time nursing service personnel

spend on medical services and general and administrative (G and A) time. This time study will assure that there is no duplicate claiming. The G and A percentage shall be reallocated in a manner consistent with the CMS-approved Medicaid administrative claiming methodology. Total G and A time shall be allocated to all other activity codes based on the percentage of time spent on each respective activity. To reallocate G and A time to medical services, the percentage of time spent on medical services shall be divided by 100 percent minus the percentage of G and A time. This shall result in a percentage that represents the medical services with appropriate allocation of G and A. This percentage shall be multiplied by total adjusted salary cost as determined under Paragraph B.4 above to allocate cost to school-based services. The product represents total direct cost.

a. A sufficient number of medical service personnel's time shall be sampled to ensure results that will have a confidence level of at least 95 percent with a precision of plus or minus five percent overall.

5. Determine Indirect Cost. Indirect cost shall be determined by multiplying each LEA's indirect unrestricted rate assigned by the cognizant agency (the Department of Education) by total adjusted direct cost as determined under Paragraph B.3 above. No additional indirect cost shall be recognized outside of the cognizant agency indirect rate. The sum of direct cost and indirect cost shall be the total direct service cost for all students receiving medical services.

6. Allocate Direct Service Cost to Medicaid. To determine the amount of cost that may be attributed to Medicaid, total cost as determined under Paragraph B.5 above shall be multiplied by the ratio of Medicaid students in the LEA to all students in the LEA. This results in total cost that may be certified as Medicaid's portion of school-based medical services cost.

C. Reconciliation of LEA Certified Costs and Medicaid Management Information System (MMIS) Paid Claims. Each LEA shall complete the medical services cost report and submit the cost report(s) no later than five months after the fiscal year period ends (June 30), and reconciliation shall be completed within 12 months from the fiscal year end. All filed medical services cost reports shall be subject to desk review by the department's audit contractor. The department shall reconcile the total expenditures (both state and federal share) for each LEA's nursing services. The Medicaid certified cost expenditures from the medical services cost report(s) will be reconciled against the MMIS paid claims data and the department shall issue a notice of final settlement pending audit that denotes the amount due to or from the LEA. This reconciliation is inclusive of all medical services provided by the LEA.

D. ...

1. The financial oversight of all LEAs shall include reviewing the costs reported on the medical services cost reports against the allowable costs, performing desk reviews and conducting limited reviews.

2. The department will make every effort to audit each LEA at least every four years. These activities shall be performed to ensure that audit and final settlement occurs no later than two years from the LEA's fiscal year end for the cost reporting period audited. LEAs may appeal audit findings in accordance with LDH appeal procedures.

3. - 5. ...

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 39:2761 (October 2013), amended by the Department of Health, Bureau of Health Services Financing, LR 45:562 (April 2019).

Subchapter B. School-Based EPSDT Transportation Services

§9511. General Provisions

A. A special transportation trip is only billable to Medicaid on the same day that a Medicaid-eligible child is receiving IDEA services included in the child's individualized service plan (IEP), a section 504 accommodation plan, an individualized health care plan (IHP), an individualized family service plan (IFSP), or are otherwise medically necessary and the transportation is provided in a vehicle that is part of special transportation in the LEA's annual financial report certified and submitted to the Department of Education. The need for transportation must be documented in the child's IEP, IHP, 504 plan, IFSP or are otherwise medically necessary.

B. School-based EPSDT transportation services shall be covered for all recipients in the school system who are eligible for the service.

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

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 45:563 (April 2019).

§9515. Reimbursement Methodology

A. Payment is based on the most recent school year's actual cost as determined by desk review and/or audit for each LEA provider, which is the parish or city. Each local education agency (LEA) shall determine cost annually by using LDH's cost report for special transportation (transportation cost report) form as approved by the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS) November 2005.

1. Direct cost is limited to the cost of fuel, repairs and maintenance, rentals, contracted vehicle use cost and the amount of total compensation (salaries and fringe benefits) of special transportation employees or contract cost for contract drivers, as allocated to special transportation services for Medicaid recipients based on a ratio explained in Step 4 below.

2. Indirect cost is derived by multiplying the direct cost by the cognizant agency's unrestricted indirect cost rate assigned by the Department of Education to each LEA. There are no additional indirect costs included.

B. The transportation cost report initially provides the total cost of all special transportation services provided, regardless of payer. To determine the amount of special transportation costs that may be attributed to Medicaid, the ratio of Medicaid covered trips to all student trips determined in step 4 below is multiplied by total direct cost. Trip data is derived from transportation logs maintained by drivers for each one-way trip. This ratio functions in lieu of the time study methodology and student ratio used for the direct services cost report. Cost data on the transportation cost report is subject to certification by each parish and serves as the basis for obtaining federal Medicaid funding.

C. The participating LEA's actual cost of providing specialized transportation services will be claimed for

Medicaid FFP based on the methodology described in the steps below. The state will gather actual expenditure information for each LEA through the LEA's payroll/benefits and accounts payable system. These costs are also reflected in the annual financial report (AFR) that all LEAs are required to certify and submit to the Department of Education. All costs included in the amount of cost to be certified and used subsequently to determine the reconciliation and final settlement amounts as well as interim rates are identified on the CMS-approved transportation cost report and are allowed in OMB Circular A-87.

1. Step 1—Develop Direct Cost—Other. The non-federal share of cost for special transportation fuel, repairs and maintenance, rentals, and contract vehicle use cost are obtained from the LEA's accounts payable system and reported on the transportation cost report form.

2. Step 2—Develop Direct Cost—The Payroll Cost Base. Total annual salaries and benefits paid as well as contract cost (vendor payments) for contract drivers are obtained from each LEA's payroll/benefits and accounts payable systems. This data will be reported on the transportation cost report form for all direct service personnel (i.e. all personnel working in special transportation).

3. Step 3—Determine Indirect Cost. Indirect cost is determined by multiplying each LEA's unrestricted indirect rate assigned by the cognizant agency (the Department of Education) by total direct cost as determined under steps 1 and 2. No additional indirect cost is recognized outside of the cognizant agency indirect rate. The sum of direct costs as determined in steps 1 and 2 and indirect cost is total special transportation cost for all students with an IEP.

4. Step 4—Allocate Direct Service Cost to Medicaid. Special transportation drivers shall maintain logs of all students transported on each one-way trip. These logs shall be utilized to aggregate total annual one-way trips which will be reported by each LEA on the special transportation cost report. Total annual one-way trips by Medicaid students will be determined by LDH from the MMIS claims system. To determine the amount of special transportation cost that may be attributed to Medicaid, total cost as determined under step 3 is multiplied by the ratio of one-way trips by Medicaid students to one-way trips for all students transported via special transportation. This results in total cost that may be certified as Medicaid's portion of school based special transportation services cost.

D. Cost Settlement Process. As part of its financial oversight responsibilities, the department will develop audit and review procedures to audit and process final settlements for certain LEAs. The audit plan will include a risk assessment of the LEAs using paid claim data available from the department to determine the appropriate level of oversight. The financial oversight of all LEAs will include reviewing the costs reported on the direct services and transportation cost reports against the allowable costs in accordance with OMB Circular A-87, performing desk reviews and conducting limited reviews. For example, field audits will be performed when the department finds a substantial difference between information on the filed direct services and/or transportation cost reports and Medicaid claims payment data for particular LEAs. These activities

will be performed to ensure that audit and final settlement occurs no later than two years from the LEA's fiscal year end for the cost reporting period audited.

1. LEAs may appeal audit findings in accordance with LDH appeal procedures.

2. Medicaid will adjust the affected LEA's payments no less than annually when any reconciliation or final settlement results in significant underpayments or overpayments to any LEA. By performing the reconciliation and final settlement process, there will be no instances where total Medicaid payments for services exceed 100 percent of actual, certified expenditures for providing LEA services for each LEA.

3. If the interim payments exceed the actual, certified costs of an LEA's Medicaid services, the department will recoup the overpayment in one of the following methods:

a. offset all future claim payments from the affected LEA until the amount of the overpayment is recovered;

b. recoup an agreed upon percentage from future claims payments to the LEA to ensure recovery of the overpayment within one year; or

c. recoup an agreed upon dollar amount from future claims payments to the LEA to ensure recovery of the overpayment within one year.

4. If the actual certified costs of an LEA's Medicaid services exceed interim Medicaid payments, the Bureau will pay this difference to the LEA in accordance with the final actual certification agreement.

5. State Monitoring. If the department becomes aware of potential instances of fraud, misuse or abuse of LEA services and Medicaid funds, it will perform timely audits and investigations to identify and take the necessary actions to remedy and resolve the problem.

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

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 45:563 (April 2019).

Subchapter C. School-Based Medicaid Personal Care Services

§9521. General Provisions

A. EPSDT school-based personal care services (PCS) are provided by a personal care assistant pursuant to an individualized service plan (IEP), a section 504 accommodation plan, an individualized health care plan, an individualized family service plan, or are otherwise medically necessary within a local education agency (LEA). The goal of these services is to enable the recipient to be treated on an outpatient basis rather than an inpatient basis to the extent that services on an outpatient basis are projected to be more cost effective than services provided on an inpatient basis.

B. All personal care assistants providing school-based personal care services shall not be a member of the recipient's immediate family (immediate family includes father, mother, sister, brother, spouse, child, grandparent, in-law, or any individual acting as parent or guardian of the recipient). Personal care services may be provided by a person of a degree of relationship to the recipient other than immediate family, if the relative is not living in the recipient's home, or, if she/he is living in the recipient's home solely because her/his presence in the home is

necessitated by the amount of care required by the recipient. Personal care assistants must meet all training requirements applicable under state law and regulations and successfully complete the applicable examination for certification for PCS.

C. School-based personal care services shall be covered for all recipients in the school system.

D. Personal care services must meet medical necessity criteria as established by the Bureau of Health Services Financing (BHSF) which shall be based on criteria equivalent to at least an intermediate care facility I (ICF-1) level of care; and the recipient must be impaired in at least two of daily living tasks, as determined by BHSF.

E. Early and periodic screening, diagnosis, and treatment personal care services must be prescribed by the recipient's attending physician initially and every 180 days thereafter (or rolling six months), and when changes in the plan of care occur. The plan of care shall be acceptable for submission to BHSF only after the physician signs and dates the completed form.

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

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 45:564 (April 2019).

§9523. Covered Services

A. The following school-based personal care services shall be covered:

1. basic personal care, toileting and grooming activities, including bathing, care of the hair and assistance with clothing;
2. assistance with bladder and/or bowel requirements or problems, including helping the client to and from the bathroom or assisting the client with bedpan routines, but excluding catheterization;
3. assistance with eating and food, nutrition, and diet activities, including preparation of meals for the recipient only;
4. performance of incidental household services essential to the client's health and comfort in her/his home; and

EXAMPLES: Changing and washing bed linens and rearranging furniture to enable the recipient to move about more easily in his/her own home.

5. accompanying, but not transporting, the recipient to and from his/her physician and/or medical facility for necessary medical services.

B. EPSDT personal care services are not:

1. to be provided to meet childcare needs nor as a substitute for the parent in the absence of the parent;
2. allowable for the purpose of providing respite care to the primary caregiver; and
3. reimbursable when provided in an educational setting if the services duplicate services that are or must be provided by the Department of Education.

C. Documentation for EPSDT PCS provided shall include at a minimum, the following:

1. documentation of approval of services by BHSF or its designee;
2. daily notes by PCS provider denoting date of service, services provided (checklist is adequate);
3. total number of hours worked;
4. time period worked;

5. condition of recipient;
6. service provision difficulties;
7. justification for not providing scheduled services; and
8. any other pertinent information.

D. There must be a clear audit trail between:

1. the prescribing physician;
2. the local education agency;
3. the individual providing the personal care services to the recipient; and
4. the services provided and reimbursed by Medicaid.

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

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 45:565 (April 2019).

§9525. Reimbursement Methodology

A. Payment for EPSDT school-based personal care services shall be based on the most recent school year's actual cost as determined by desk review and/or audit for each LEA provider.

1. Each LEA shall determine cost annually by using LDH's cost report for personal care service cost form based on the direct services cost report.

2. Direct cost shall be limited to the amount of total compensation (salaries, vendor payments and fringe benefits) of current personal care service providers as allocated to personal care services for Medicaid recipients. The direct cost related to the electronic health record shall be added to the compensation costs to arrive at the total direct costs for personal care services. There are no additional direct costs included in the rate.

3. Indirect cost shall be derived by multiplying the cognizant agency indirect cost unrestricted rate assigned by the Department of Education to each LEA by the allowable costs. There are no additional indirect costs included.

4. To determine the amount of personal care services cost that may be attributed to Medicaid; the ratio of total Medicaid students in the LEA to all students in the LEA is multiplied by total direct cost. Cost data is subject to certification by each LEA. This serves as the basis for obtaining federal Medicaid funding.

B. For the personal care services, the participating LEAs' actual cost of providing the services shall be claimed for Medicaid federal financial participation (FFP) based on the following methodology.

1. The state shall gather actual expenditure information for each LEA through its payroll/benefits and accounts payable system.

2. Develop Direct Cost-The Payroll Cost Base. Total annual salaries and benefits paid, as well as contracted (vendor) payments, shall be obtained initially from each LEA's payroll/benefits and accounts payable system. This data shall be reported on LDH's personal care services cost report form for all personal care service personnel (i.e. all personnel providing LEA personal care treatment services covered under the state plan).

3. Adjust the Payroll Cost Base. The payroll cost base shall be reduced for amounts reimbursed by other funding sources (e.g. federal grants). The payroll cost base shall not include any amounts for staff whose compensation is 100

percent reimbursed by a funding source other than state/local funds. This application results in total adjusted salary cost.

4. Due to the nature of personal care services, 100 percent of the personal care provider's time will be counted as reimbursable. Personal care providers will not be subject to a time study.

5. Determine Indirect Cost. Indirect cost shall be determined by multiplying each LEA's indirect unrestricted rate assigned by the cognizant agency (the Department of Education) by total adjusted direct cost as determined under Paragraph B.3 above. No additional indirect cost shall be recognized outside of the cognizant agency indirect rate. The sum of direct cost and indirect cost shall be the total direct service cost for all students receiving personal care services.

6. Allocate Direct Service Cost to Medicaid. To determine the amount of cost that may be attributed to Medicaid, total cost as determined under Paragraph B.5 above shall be multiplied by the ratio of Medicaid students in the LEA to all students in the LEA. This results in total cost that may be certified as Medicaid's portion of school-based personal care services cost.

C. Reconciliation of LEA Certified Costs and Medicaid Management Information System (MMIS) Paid Claims. Each LEA shall complete the personal care services cost report and submit the cost report(s) no later than five months after the fiscal year period ends (June 30), and reconciliation shall be completed within 12 months from the fiscal year end. All filed personal care services cost reports shall be subject to desk review by the department's audit contractor. The department shall reconcile the total expenditures (both state and federal share) for each LEA's nursing services. The Medicaid certified cost expenditures from the personal care services cost report(s) will be reconciled against the MMIS paid claims data and the department shall issue a notice of final settlement pending audit that denotes the amount due to or from the LEA. This reconciliation is inclusive of all personal care services provided by the LEA.

D. Cost Settlement Process. As part of its financial oversight responsibilities, the department shall develop audit and review procedures to audit and process final settlements for certain LEAs. The audit plan shall include a risk assessment of the LEAs using available paid claims data to determine the appropriate level of oversight.

1. The financial oversight of all LEAs shall include reviewing the costs reported on the personal care services cost reports against the allowable costs, performing desk reviews and conducting limited reviews.

2. The department will make every effort to audit each LEA at least every four years. These activities shall be performed to ensure that audit and final settlement occurs no later than two years from the LEA's fiscal year end for the cost reporting period audited. LEAs may appeal audit findings in accordance with LDH appeal procedures.

3. The department shall adjust the affected LEA's payments no less than annually, when any reconciliation or final settlement results in significant underpayments or overpayments to any LEA. By performing the reconciliation and final settlement process, there shall be no instances where total Medicaid payments for services exceed 100 percent of actual, certified expenditures for providing LEA services for each LEA.

4. If the interim payments exceed the actual, certified costs of an LEA's Medicaid services, the department shall recoup the overpayment in one of the following methods:

a. offset all future claim payments from the affected LEA until the amount of the overpayment is recovered;

b. recoup an agreed upon percentage from future claims payments to the LEA to ensure recovery of the overpayment within one year; or

c. recoup an agreed upon dollar amount from future claims payments to the LEA to ensure recovery of the overpayment within one year.

5. If the actual certified costs of an LEA's Medicaid services exceed interim Medicaid payments, the department will pay this difference to the LEA in accordance with the final actual certification agreement.

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

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 45:565 (April 2019).

Subchapter D. School-Based Therapy Services

§9531. General Provisions

A. EPSDT school-based therapy services are provided pursuant to an individualized service plan (IEP), a section 504 accommodation plan, an individualized health care plan, an individualized family service plan, or are otherwise medically necessary within a local education agency (LEA). School-based therapy services include physical therapy, occupational therapy and other services, including services provided by audiologists and services for individuals with speech, hearing and language disorders, performed by, or under the direction of, providers who meet the qualifications set forth in the therapist licensing requirement.

B. Therapists providing school-based therapy services are required to maintain an active therapist license with the state of Louisiana.

C. School-based therapy services shall be covered for all recipients in the school system who are eligible for the service.

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

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 45:566 (April 2019).

§9533. Covered Services

A. The following school-based therapy services shall be covered.

1. Audiology Services. The identification and treatment of children with auditory impairment, using at risk criteria and appropriate audiology screening techniques. Therapists and/or audiologists must meet qualifications established in 42 CFR 440.110(c).

2. Speech Pathology Services. The identification and treatment of children with communicative or oropharyngeal disorders and delays in development of communication skills including diagnosis. Therapists and/or audiologists must meet qualifications established in 42 CFR 440.110(c).

3. Occupational Therapy Services. Addresses the functional needs of a child related to the performance of self-help skills, adaptive behavior, play and sensory, motor and postural development. Therapists must meet qualifications established in 42 CFR 440.110(b).

4. Physical Therapy Services. Designed to improve the child's movement dysfunction. Therapists must meet qualifications established in 42 CFR 440.110(a).

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

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 45:566 (April 2019).

§9535. Reimbursement Methodology

A. Local education agencies (LEAs) will only be reimbursed for the following Individuals with Disabilities Education Act (IDEA) services:

1. audiology;
2. speech pathology;
3. physical therapy;
4. occupational therapy; and
5. psychological services.

B. Services provided by local education agencies to recipients ages 3 to 21 that are medically necessary and included on the recipient's individualized service plan (IEP), a section 504 accommodation plan, an individualized health care plan, an individualized family service plan, or are otherwise medically necessary are reimbursed according to the following methodology.

1. Speech/language therapy services shall continue to be reimbursed in accordance with the Medicaid published fee schedule.

C. Cost Reporting. Settlement payments for EPSDT school-based therapy services shall be based on the most recent school year's actual cost as determined by desk review and/or audit for each LEA provider.

1. Each LEA shall determine cost annually by using LDH's cost report for therapy service cost form based on the direct services cost report.

2. Direct cost shall be limited to the amount of total compensation (salaries, vendor payments and fringe benefits) of current therapy service providers as allocated to therapy services for Medicaid recipients. The direct cost related to the electronic health record shall be added to the compensation costs to arrive at the total direct costs for therapy services. There are no additional direct costs included in the rate.

3. Indirect cost shall be derived by multiplying the cognizant agency indirect cost unrestricted rate assigned by the Department of Education to each LEA by the allowable costs. There are no additional indirect costs included.

4. To determine the amount of therapy services cost that may be attributed to Medicaid; the ratio of total Medicaid students in the LEA to all students in the LEA is multiplied by total direct cost. Cost data is subject to certification by each LEA. This serves as the basis for obtaining federal Medicaid funding.

D. For the therapy services, the participating LEAs' actual cost of providing the services shall be claimed for Medicaid federal financial participation (FFP) based on the following methodology.

1. The state shall gather actual expenditure information for each LEA through its payroll/benefits and accounts payable system.

2. Develop Direct Cost-The Payroll Cost Base. Total annual salaries and benefits paid, as well as contracted (vendor) payments, shall be obtained initially from each

LEA's payroll/benefits and accounts payable system. This data shall be reported on LDH's therapy services cost report form for all therapy service personnel (i.e. all personnel providing LEA therapy treatment services covered under the state plan).

3. Adjust the Payroll Cost Base. The payroll cost base shall be reduced for amounts reimbursed by other funding sources (e.g. federal grants). The payroll cost base shall not include any amounts for staff whose compensation is 100 percent reimbursed by a funding source other than state/local funds. This application results in total adjusted salary cost.

4. Determine the Percentage of Time to Provide All Therapy Services. A time study which incorporates the CMS-approved Medicaid administrative claiming (MAC) methodology for therapy service personnel shall be used to determine the percentage of time therapy service personnel spend on therapy services and general and administrative (G and A) time. This time study will assure that there is no duplicate claiming. The G and A percentage shall be reallocated in a manner consistent with the CMS-approved Medicaid administrative claiming methodology. Total G and A time shall be allocated to all other activity codes based on the percentage of time spent on each respective activity. To reallocate G and A time to therapy services, the percentage of time spent on therapy services shall be divided by 100 percent minus the percentage of G and A time. This shall result in a percentage that represents the therapy services with appropriate allocation of G and A. This percentage shall be multiplied by total adjusted salary cost as determined under Paragraph B.4 above to allocate cost to school based services. The product represents total direct cost.

a. A sufficient number of therapy service personnel shall be sampled to ensure results that will have a confidence level of at least 95 percent with a precision of plus or minus five percent overall.

5. Determine Indirect Cost. Indirect cost shall be determined by multiplying each LEA's indirect unrestricted rate assigned by the cognizant agency (the Department of Education) by total adjusted direct cost as determined under Paragraph D.3 above. No additional indirect cost shall be recognized outside of the cognizant agency indirect rate. The sum of direct cost and indirect cost shall be the total direct service cost for all students receiving therapy services.

6. Allocate Direct Service Cost to Medicaid. To determine the amount of cost that may be attributed to Medicaid, total cost as determined under Paragraph D.5 above shall be multiplied by the ratio of Medicaid students in the LEA to all students in the LEA. This results in total cost that may be certified as Medicaid's portion of school-based therapy services cost.

E. Reconciliation of LEA Certified Costs and Medicaid Management Information System (MMIS) Paid Claims. Each LEA shall complete the therapy services cost report and submit the cost report(s) no later than five months after the fiscal year period ends (June 30), and reconciliation shall be completed within 12 months from the fiscal year end. All filed therapy services cost reports shall be subject to desk review by the department's audit contractor. The department shall reconcile the total expenditures (both state and federal share) for each LEA's therapy services. The Medicaid certified cost expenditures from the therapy services cost report(s) will be reconciled against the MMIS paid claims

data and the department shall issue a notice of final settlement pending audit that denotes the amount due to or from the LEA. This reconciliation is inclusive of all therapy services provided by the LEA.

F. Cost Settlement Process. As part of its financial oversight responsibilities, the department shall develop audit and review procedures to audit and process final settlements for certain LEAs. The audit plan shall include a risk assessment of the LEAs using available paid claims data to determine the appropriate level of oversight.

1. The financial oversight of all LEAs shall include reviewing the costs reported on the therapy services cost reports against the allowable costs, performing desk reviews and conducting limited reviews.

2. The department will make every effort to audit each LEA at least every four years. These activities shall be performed to ensure that audit and final settlement occurs no later than two years from the LEA's fiscal year end for the cost reporting period audited. LEAs may appeal audit findings in accordance with LDH appeal procedures.

3. The department shall adjust the affected LEA's payments no less than annually, when any reconciliation or final settlement results in significant underpayments or overpayments to any LEA. By performing the reconciliation and final settlement process, there shall be no instances where total Medicaid payments for services exceed 100 percent of actual, certified expenditures for providing LEA services for each LEA.

4. If the interim payments exceed the actual, certified costs of an LEA's Medicaid services, the department shall recoup the overpayment in one of the following methods:

a. offset all future claim payments from the affected LEA until the amount of the overpayment is recovered;

b. recoup an agreed upon percentage from future claims payments to the LEA to ensure recovery of the overpayment within one year; or

c. recoup an agreed upon dollar amount from future claims payments to the LEA to ensure recovery of the overpayment within one year.

5. If the actual certified costs of an LEA's Medicaid services exceed interim Medicaid payments, the department will pay this difference to the LEA in accordance with the final actual certification agreement.

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

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 45:567 (April 2019).

Part XXXIII. Behavioral Health Services

Subpart 5. School Based Behavioral Health Services

Chapter 41. General Provisions

§4101. Introduction

A. The Medicaid Program hereby adopts provisions to provide coverage under the Medicaid state plan for school based behavioral health services rendered to children and youth with behavioral health disorders. These services shall be administered under the authority of the Department of Health.

B. The school based behavioral health services rendered to children with emotional or behavioral disorders are medically necessary behavioral health services provided to

Medicaid recipients in accordance with an individualized service plan, a section 504 accommodation plan pursuant to 34 C.F.R. §104.36, an individualized health care plan, an individualized family service plan, or are otherwise medically necessary.

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 38:400 (February 2012), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Behavioral Health, LR 41:2171 (October 2015), amended by the Department of Health, Bureau of Health Services Financing and the Office of Behavioral Health, LR 45:568 (April 2019).

§4103. Recipient Qualifications

A. ...

B. Qualifying children and adolescents must have been determined eligible for Medicaid and behavioral health services covered under Part B of the Individuals with Disabilities Education Act (IDEA), with a written service plan (an IEP, section 504 plan, individualized health care plan (IHP), or an individualized family service plan (IFSP)) which contains medically necessary services recommended by a physician or other licensed practitioner, within the scope of his or practice under state law.

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 38:400 (February 2012), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Behavioral Health, LR 41:2172 (October 2015), amended by the Department of Health, Bureau of Health Services Financing and the Office of Behavioral Health, LR 45:568 (April 2019).

Chapter 43. Services

§4301. General Provisions

A. The Medicaid Program shall provide coverage for behavioral health services pursuant to §1905(a) of the Social Security Act which are addressed in the IEP, section 504 plan, IHP, IFSP or otherwise medically necessary, and that correct or ameliorate a child's health condition.

B. Services must be performed by qualified providers who provide school based behavioral health services as part of their respective area of practice (e.g. psychologist providing a behavioral health evaluation). Services rendered by certified school psychologists must be supervised consistent with R.S. 17:7.1.

1. Applied behavior analysis-based (ABA) services rendered in school-based settings must be provided by, or under the supervision of, a behavior analyst who is currently licensed by the Louisiana Behavior Analyst Board, or a licensed psychologist or licensed medical psychologist, hereafter referred to as the licensed professional. Payment for services must be billed by the licensed professional

C. - 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 38:400 (February 2012), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Behavioral Health, LR 41:2172 (October 2015), amended by the Department of Health, Bureau of Health Services Financing and the Office of Behavioral Health, LR 45:568 (April 2019).

§4303. Covered Services

A. ...

B. The following school based behavioral health services shall be reimbursed under the Medicaid Program:

1. ...

2. rehabilitation services, including community psychiatric support and treatment (CPST);

3. addiction services; and

4. environmental modification using behavioral stimuli and consequences to produce socially significant improvement in human behavior, including the direct observation, measurement and functional analysis of the relations between environment and behavior.

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 38:400 (February 2012), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Behavioral Health, LR 41:384 (February 2015), LR 41:2172 (October 2015), amended by the Department of Health, Bureau of Health Services Financing and the Office of Behavioral Health, LR 45:569 (April 2019).

§4305. Service Limitations and Exclusions

A. The Medicaid Program shall not cover school based behavioral health services performed solely for educational purposes (e.g. academic testing). Services that are not reflected in the IEP, section 504 plan, IHP or IFSP (as determined by the assessment and evaluation) shall not be covered.

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 38:401 (February 2012), amended by the Department of Health, Bureau of Health Services Financing and the Office of Behavioral Health, LR 45:569 (April 2019).

Chapter 45. Provider Participation

§4501. Local Education Agency Responsibilities

A. - D. ...

E. Anyone providing behavioral health services must be operating within the scope of practice of their applicable license. The provider shall create and maintain documents to substantiate that all requirements are met.

F. - F.6. ...

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 38:401 (February 2012), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Behavioral Health, LR 41:385 (February 2015), LR 41:2172 (October 2015), amended by the Department of Health, Bureau of Health Services Financing and the Office of Behavioral Health, LR 45:569 (April 2019).

Chapter 47. Payments

§4701. Reimbursement Methodology

A. Payments for school based behavioral health services shall be based on the most recent school year's actual cost as determined by desk review and/or audit for each LEA provider.

1. Each LEA shall determine cost annually by using LDH's cost report for behavioral health service cost form based on the direct services cost report.

2. Direct cost shall be limited to the amount of total compensation (salaries, vendor payments and fringe benefits) of current behavioral health service providers as allocated to medical services for Medicaid recipients. The direct cost related to the electronic health record shall be added to the compensation costs to arrive at the total direct costs for behavioral health services. There are no additional direct costs included in the rate.

3. Indirect cost shall be derived by multiplying the cognizant agency indirect cost unrestricted rate assigned by the Department of Education to each LEA. There are no additional indirect costs included.

4. To determine the amount of behavioral health services cost that may be attributed to Medicaid; the ratio of total Medicaid students in the LEA to all students in the LEA is multiplied by total direct cost. Cost data is subject to certification by each LEA. This serves as the basis for obtaining federal Medicaid funding.

B. For the medical services, the participating LEAs' actual cost of providing the services shall be claimed for federal financial participation (FFP) based on the following methodology.

1. The state shall gather actual expenditure information for each LEA through its payroll/benefits and accounts payable system.

2. Develop Direct Cost-The Payroll Cost Base. Total annual salaries and benefits paid, as well as contracted (vendor) payments, shall be obtained initially from each LEA's payroll/benefits and accounts payable system. This data shall be reported on LDH's behavioral health services cost report form for all behavioral health service personnel (i.e. all personnel providing LEA behavioral health treatment services covered under the state plan).

3. Adjust the Payroll Cost Base. The payroll cost base shall be reduced for amounts reimbursed by other funding sources (e.g., federal grants). The payroll cost base shall not include any amounts for staff whose compensation is 100 percent reimbursed by a funding source other than state/local funds. This application results in total adjusted salary cost.

4. Determine the Percentage of Time to Provide All behavioral health Services. A time study which incorporates the CMS-approved Medicaid administrative claiming (MAC) methodology for nursing service personnel shall be used to determine the percentage of time nursing service personnel spend on behavioral health services and general and administrative (G and A) time. This time study will assure that there is no duplicate claiming. The G and A percentage shall be reallocated in a manner consistent with the CMS-approved Medicaid administrative claiming methodology. Total G and A time shall be allocated to all other activity codes based on the percentage of time spent on each respective activity. To reallocate G and A time to behavioral health services, the percentage of time spent on behavioral health services shall be divided by 100 percent minus the percentage of G and A time. This shall result in a percentage that represents the behavioral health services with appropriate allocation of G and A. This percentage shall

be multiplied by total adjusted salary cost as determined under Paragraph B.4 above to allocate cost to school based services. The product represents total direct cost.

a. A sufficient number of behavioral health service personnel's time shall be sampled to ensure results that will have a confidence level of at least 95 percent with a precision of plus or minus 5 percent overall.

5. Determine Indirect Cost. Indirect cost shall be determined by multiplying each LEA's indirect unrestricted rate assigned by the cognizant agency (the Department of Education) by total adjusted direct cost as determined under Paragraph B.3 above. No additional indirect cost shall be recognized outside of the cognizant agency indirect rate. The sum of direct cost and indirect cost shall be the total direct service cost for all students receiving behavioral health services.

6. Allocate Direct Service Cost to Medicaid. To determine the amount of cost that may be attributed to Medicaid, total cost as determined under Paragraph B.5 above shall be multiplied by the ratio of Medicaid students in the LEA to all students in the LEA. This results in total cost that may be certified as Medicaid's portion of school-based behavioral health services cost.

C. Reconciliation of LEA Certified Costs and Medicaid Management Information System (MMIS) Paid Claims. Each LEA shall complete the behavioral health services cost report and submit the cost report(s) no later than five months after the fiscal year period ends (June 30), and reconciliation shall be completed within 12 months from the fiscal year end. All filed behavioral health services cost reports shall be subject to desk review by the department's audit contractor. The department shall reconcile the total expenditures (both state and federal share) for each LEA's nursing services. The Medicaid certified cost expenditures from the behavioral health services cost report(s) will be reconciled against the MMIS paid claims data and the department shall issue a notice of final settlement pending audit that denotes the amount due to or from the LEA. This reconciliation is inclusive of all behavioral health services provided by the LEA.

1. – 2. Repealed.

D. Cost Settlement Process. As part of its financial oversight responsibilities, the department shall develop audit and review procedures to audit and process final settlements for certain LEAs. The audit plan shall include a risk assessment of the LEAs using available paid claims data to determine the appropriate level of oversight.

1. The financial oversight of all LEAs shall include reviewing the costs reported on the behavioral health services cost reports against the allowable costs, performing desk reviews and conducting limited reviews.

2. The department will make every effort to audit each LEA at least every four years. These activities shall be performed to ensure that audit and final settlement occurs no later than two years from the LEA's fiscal year end for the cost reporting period audited. LEAs may appeal audit findings in accordance with LDH appeal procedures.

3. The department shall adjust the affected LEA's payments no less than annually, when any reconciliation or final settlement results in significant underpayments or overpayments to any LEA. By performing the reconciliation

and final settlement process, there shall be no instances where total Medicaid payments for services exceed 100 percent of actual, certified expenditures for providing LEA services for each LEA.

4. If the interim payments exceed the actual, certified costs of an LEA's Medicaid services, the department shall recoup the overpayment in one of the following methods:

a. offset all future claim payments from the affected LEA until the amount of the overpayment is recovered;

b. recoup an agreed upon percentage from future claims payments to the LEA to ensure recovery of the overpayment within one year; or

c. recoup an agreed upon dollar amount from future claims payments to the LEA to ensure recovery of the overpayment within one year.

5. If the actual certified costs of an LEA's Medicaid services exceed interim Medicaid payments, the department will pay this difference to the LEA in accordance with the final actual certification agreement.

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 38:401 (February 2012), amended by the Department of Health, Bureau of Health Services Financing and the Office of Behavioral Health, LR 45:569 (April 2019).

§4703. Cost Calculations

Repealed.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:401 (February 2012), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Behavioral Health, LR 41:2172 (October 2015), repealed by the Department of Health, Bureau of Health Services Financing and the Office of Behavioral Health, LR 45:569 (April 2019).

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

Rebekah E. Gee MD, MPH
Secretary

1904#073

RULE

Department of Health Bureau of Health Services Financing

Pharmacy Benefits Management Program
Pharmacy Ingredient Cost Reimbursement
(LAC 50:XXIX.105 and Chapter 9)

The Department of Health, Bureau of Health Services Financing has amended LAC 50:XXIX.105 and Chapter 9 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq. This Rule is hereby adopted on the day of promulgation.

Title 50
PUBLIC HEALTH—MEDICAL ASSISTANCE
Part XXIX. Pharmacy

Chapter 1. General Provisions

§105. Medicaid Pharmacy Benefits Management System Point of Sale—Prospective Drug Utilization Program

A. - B. ...

C. Covered Drug List. The list of covered drugs is managed through multiple mechanisms. Drugs in which the manufacturer entered into the Medicaid Drug Rebate Program with CMS are included in the list of covered drugs. National average drug acquisition cost (NADAC) and usual and customary charges assist in managing costs on the covered drug list. Establishment of co-payments also provides for management.

D. Reimbursement Management. The cost of pharmaceutical care is managed through NADAC of the ingredient or through wholesale acquisition cost (WAC) when no NADAC is assigned and the establishment of the professional dispensing fee, drug rebates and copayments. Usual and customary charges are compared to other reimbursement methodologies and the “lesser of” is reimbursed.

E. - L. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254, Title XIX of the Social Security Act, and the 1995-96 General Appropriate Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 32:1053 (June 2006), amended by the Department of Health, Bureau of Health Services Financing, LR 43:1180 (June 2017), LR 43:1553 (August 2017), LR 45:570 (April 2019).

Chapter 9. Methods of Payment

Subchapter A. General Provisions

§901. Definitions

Average Acquisition Cost (AAC)—Repealed.

* * *

National Average Drug Acquisition Cost (NADAC)—a national pricing benchmark that is reflective of actual invoice costs that pharmacies pay to acquire prescription and over-the-counter drugs. It is based upon invoice cost data collected from retail community pharmacies and reflects actual drug purchases.

* * *

Usual and Customary Charge—the lowest price the pharmacy would charge to a particular customer if such customer were paying cash for the identical prescription drug or prescription drug services on the date dispensed.

* * *

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 32:1061 (June 2006), amended LR 34:87 (January 2008), amended 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 43:1184 (June 2017), LR 43:1554 (August 2017), LR 45:571 (April 2019).

Subchapter C. Estimated Acquisition Cost

§935. Estimated Acquisition Cost Formula

A. Estimated acquisition cost (EAC) is the national average drug acquisition cost (NADAC) of the drug dispensed. If there is not a NADAC available, the EAC is equal to the wholesale acquisition cost, as reported in the drug pricing compendia utilized by the department’s fiscal intermediary/pharmacy benefits manager (PBM).

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 32:1064 (June 2006), amended LR 34:88 (January 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 36:1561 (July 2010), amended by the Department of Health, Bureau of Health Services Financing, LR 43:1184 (June 2017), LR 45:571 (April 2019).

Subchapter D. Maximum Allowable Costs

§945. Reimbursement Methodology

A. - A.1. ...

B. Payment will be made for medications in accordance with the payment procedures for any fee-for-service (FFS) Medicaid eligible person.

C. - F. ...

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 32:1064 (June 2006), amended LR 34:88 (January 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 36:1561 (July 2010), amended by the Department of Health, Bureau of Health Services Financing, LR 43:1184 (June 2017), LR 45:571 (April 2019).

§949. Fee for Service Cost Limits

A. Brand Drugs. The department shall make payments for single source drugs (brand drugs) based on the lower of:

1. national average drug acquisition cost (NADAC) plus the professional dispensing fee:

a. if no NADAC is available, use the wholesale acquisition cost (WAC) plus the professional dispensing fee; or

2. - 2.a. ...

B. Generic Drugs. The department shall make payments for multiple source drugs (generic drugs), other than drugs subject to “physician certifications”, based on the lower of:

1. NADAC plus the professional dispensing fee:

a. if no NADAC is available, use the WAC plus the professional dispensing fee; or

2. the provider’s usual and customary charges to the general public not to exceed the department’s “maximum payment allowed.”

a. For purposes of these provisions, the term general public does not include any person whose prescriptions are paid by third-party payors, including health insurers, governmental entities and Louisiana Medicaid.

3. - 3.a. Repealed.

C. Physician Certifications

1. Limits on payments for multiple source drugs shall not be applicable when the prescriber certifies in his own handwriting that a specified brand name drug is medically

necessary for the care and treatment of a recipient. Such certification may be written directly on the prescription or on a separate sheet which is dated and attached to the prescription. A standard phrase in the prescriber's handwriting, such as "brand necessary" will be acceptable.

a. - b. Repealed.

2. Any practice which precludes the prescriber's handwritten statement shall not be accepted as a valid certification. Such practices include, but are not limited to:

- a. a printed box on the prescription blank that could be checked by the prescriber to indicate brand necessity;
- b. a handwritten statement transferred to a rubber stamp and then stamped on the prescription blank; and
- c. preprinted prescription forms using a facsimile of the prescriber's handwritten statement.

3. - 3.c. Repealed.

D. Fee-for-Service 340B Purchased Drugs. The department shall make payments for self-administered drugs that are purchased by a covered entity through the 340B program at the actual acquisition cost which can be no more than the 340B ceiling price plus the professional dispensing fee, unless the covered entity has implemented the Medicaid carve-out option, in which case 340B drugs should not be billed to or reimbursed by Medicaid. 340B contract pharmacies are not permitted to bill 340B stock to Medicaid. Fee-for-service outpatient hospital claims for 340B drugs shall use a cost to charge methodology on the interim and settled at cost during final settlement. Federally qualified health center (FQHC) and rural health clinic (RHC) claims for physician-administered drugs shall be included in the all-inclusive T1015 encounter rate.

1. - 2.c. Repealed.

E. Federal Supply Schedule Drugs. Drugs acquired at federal supply schedule (FSS) and at nominal price shall be reimbursed at actual acquisition cost plus a professional dispensing fee.

F. Indian Health Service All-Inclusive Encounter Rate. Pharmacy services provided by the Indian Health Service (IHS) shall be included in the encounter rate. No individual pharmacy claims shall be reimbursed to IHS providers.

G. Mail Order, Long-Term Care and Specialty Pharmacy. Drugs dispensed by mail order, long-term care and/or specialty pharmacies (drugs not distributed by a retail community pharmacy) will be reimbursed using the brand/generic drug reimbursement methodology.

H. Physician-Administered Drugs. Medicaid-covered physician-administered drugs shall be reimbursed according to the Louisiana professional services fee schedule. Reimbursement shall be determined utilizing the following methodology, and periodic updates to the rates shall be made in accordance with the approved Louisiana Medicaid State Plan provisions governing physician-administered drugs in a physician office setting.

1. Reimbursement for Medicaid-covered physician-administered drugs in a physician office setting shall be established at the current Louisiana Medicare rate, which is average sales price (ASP) plus 6 percent, for drugs appearing on the Medicare file.

2. Reimbursement rates for physician-administered drugs in a physician office setting that do not appear on the Medicare file shall be determined utilizing the following alternative methods:

a. the wholesale acquisition cost (WAC) of the drug, if available;

b. If the drug has no WAC available, one of the following methods shall be used:

- i. the provider's actual cost of the drug as documented by invoice or other acceptable documentation as deemed appropriate by the department;
- ii. Medicaid rate of other states;
- iii. commercial payer rate; or
- iv. medical consultant recommendation.

I. Clotting Factor. Pharmacy claims for clotting factor will be reimbursed using the brand/generic drug reimbursement methodology.

1. - 2.b.iv. Repealed.

J. Investigational or Experimental Drugs. Investigational or experimental drugs shall not be reimbursed by Medicaid.

K. 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 32:1065 (June 2006), amended LR 34:88 (January 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 36:1561 (July 2010), amended by the Department of Health, Bureau of Health Services Financing, LR 43:1185 (June 2017), LR 43:1554 (August 2017), LR 44:1020 (June 2018), LR 45:571 (April 2019).

Subchapter E. 340B Program

§961. Definitions

Estimated Acquisition Cost (EAC)—the national average drug acquisition cost (NADAC) of the drug dispensed. If there is not a NADAC available, the EAC is equal to the wholesale acquisition cost, as reported in the drug pricing compendia utilized by the department's fiscal intermediary.

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 32:1066 (June 2006), amended by the Department of Health, Bureau of Health Services Financing, LR 43:1186 (June 2017), LR 43:1555 (August 2017), LR 45:572 (April 2019).

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

Rebekah E. Gee MD, MPH
Secretary

1904#072

RULE

**Department of Health
Emergency Response Network Board**

Trauma Program Recognition (LAC 48:I.19707)

Editor’s Note: This Section is being repromulgated to correct citation errors. The original Rule can be viewed on page 436 of the March 20, 2019 *Louisiana Register*.

In accordance with the provisions of R.S. 49:950 et seq., and the Administrative Procedure Act, the Louisiana Emergency Response Network Board amends LAC 48:I.Chapter 197, Section 19707, a Rule as revised by the Louisiana Emergency Response Network Board in a meeting of August 16, 2018, the following “Trauma Program Recognition”, adopted as authorized by R.S. 9:2798.5. The Rule clarifies timeliness and requirements for hospitals seeking Trauma Program recognition. This Rule is hereby adopted on the day of promulgation.

Title 48

PUBLIC HEALTH—GENERAL

Part I. General Administration

Subpart 15. Emergency Response Network

Chapter 197. Trauma Program Recognition

§19707. Procedure for Trauma Program Recognition

A. - E.2. ...

F. After loss of trauma program status for failing the ACS verification visit and focused review visit, trauma program status may be regained provided the following conditions are met:

1. a LERN designee and either the LERN trauma medical director or a trauma surgeon must review the deficiencies and findings of the ACS at a site visit;

2. the hospital must develop a remediation plan and apply to the LERN board for approval of trauma program status;

3. the LERN board will review the LERN team assessment of deficiencies and the hospital’s remediation plan;

4. the LERN board must vote to approve the trauma program status request.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2846(A), R.S. 40:2845(A)(1) and R.S. 9:2798.5.

HISTORICAL NOTE: Promulgated by the Department of Health, Emergency Response Network, LR 42:1932 (November 2016), LR 45:436 (March 2019), repromulgated LR 45:573 (April 2019).

Paige Hargrove
Executive Director

1904#037

RULE

**Department of Health
Licensed Professional Vocational Rehabilitation
Counselors Board of Examiners**

**Professional Ethics
(LAC 46:LXXXVI.Chapter 1, Chapter 3 and Chapter 16)**

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., that the

Louisiana Licensed Professional Vocational Rehabilitation Counselors Board of Examiners pursuant to the authority vested in it by R.S. 37:3445, has amended its rules, repealed the current ethical canons pertaining to Licensed Vocational Rehabilitation Counselors and adopted the Commission on Rehabilitation Counselor Certification Code of Professional Ethics for Rehabilitation Counselors. The reason for the Rule is that it is required by R.S. 37:3445. The amendments to the rules are set forth below. This Rule is hereby adopted upon promulgation.

Title 46

**PROFESSIONAL AND OCCUPATIONAL
STANDARDS**

Part LXXXVI. Vocational Rehabilitation Counselors

Chapter 1. General Provisions

§103. Description of Organization

A. The Louisiana Licensed Professional Vocational Rehabilitation Counselors Board of Examiners, hereafter referred to as the board, resides in the Department of Health and consists of five members, who shall be residents in the state of Louisiana. Board members are appointed by the governor as specified in §3444. Each term shall be for four years and each of these appointments shall be submitted to the Senate for confirmation. Board members consist of four licensed professional vocational rehabilitation counselors, and one consumer from the public at large. No board member shall serve more than two full consecutive terms.

B. Appointments to the board are made from a list of qualified candidates submitted by the International Association of Rehabilitation Professionals-Louisiana. No board member shall be liable in any civil action for any act performed in good faith in the execution of his duties under Chapter 53 of Title 37 (R.S. 37:3446-3452 and R.S. 36:478.I).

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3441-3452 and R.S. 36:478(I).

HISTORICAL NOTE: Promulgated by the Department of Social Services, Licensed Professional Vocational Rehabilitation Counselors Board of Examiners, LR 15:276 (April 1989), amended LR 45:573 (April 2019).

§105. Vacancies

A. A vacancy occurring in board membership for an unexpired term shall be filled for the remainder of the term by the governor, within 30 days, from a list of qualified candidates submitted by the International Association of Rehabilitation Professionals-Louisiana as prescribed in §3444 of R.S. 37:3441-3452.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3441-3452 and R.S. 36:478(I).

HISTORICAL NOTE: Promulgated by the Department of Social Services, Licensed Professional Vocational Rehabilitation Counselors Board of Examiners, LR 15:276 (April 1989), amended LR 45:573 (April 2019).

**Chapter 3. Board Meetings, Procedures, Records,
Powers and Duties**

§301. Officers

A. The board shall elect from its membership a chairman, vice-chairman, and secretary. The chairman shall preside at all meetings at which he or she is in attendance and perform all duties prescribed by Chapter 53 of Title 37 (R.S. 37:3441-3452 and R.S. 36:478.I) and the board. The chairman is authorized by the board to make day-to-day

decisions regarding board activities to facilitate the responsiveness and effectiveness of the board. The vice-chairman shall perform the duties of the chairman in case of absence or disability of the chairman. In the event the office of chairman becomes vacant, the vice-chairman shall serve as chairman until a successor is named. In the absence of the chairman and vice-chairman, the secretary will preside until the chairman or vice-chairman is present. The secretary shall keep the minutes of board meetings and send said minutes to board members and clerical secretary of the board before each regular meeting of the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3441-3452 and R.S. 36:478(I).

HISTORICAL NOTE: Promulgated by the Department of Social Services, Licensed Professional Vocational Rehabilitation Counselors Board of Examiners, LR 15:276 (April 1989), amended LR 45:573 (April 2019).

§305. Board Staff

A. The board shall hire a full or part-time clerical secretary, who shall not be a member of the board, within the limits of funds received by the board pursuant to R.S. 37:3446. The clerical secretary will keep the records and files of the board and communicate with the candidates for licensure and others concerning board activities under the direction of the chairman of the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3441-3452 and R.S. 36:478(I).

HISTORICAL NOTE: Promulgated by the Department of Social Services, Licensed Professional Vocational Rehabilitation Counselors Board of Examiners, LR 15:276 (April 1989), amended LR 45:574 (April 2019).

§307. Meetings

A. The board shall be domiciled in Baton Rouge and shall hold its meetings in places to be designated by the board within the state of Louisiana, after reasonable notice. The board shall hold meetings at least semiannually. The chairperson may call meetings after consultation with the board members or by a majority of members voting at a regular meeting. Reasonable notice of all board meetings will be given seven days before the meeting. The board may examine, deny, approve, revoke, suspend, and renew the license of applicants and shall review applications at least once a year.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3441-3452 and R.S. 36:478(I).

HISTORICAL NOTE: Promulgated by the Department of Social Services, Licensed Professional Vocational Rehabilitation Counselors Board of Examiners, LR 15:276 (April 1989), amended LR 45:574 (April 2019).

§313. Code of Ethics

A. The board has adopted the Code of Professional Ethics for Rehabilitations Counselors created and adopted by the Commission of Rehabilitation Counselor Certification for its Certified Rehabilitation Counselors in September 2016 and effective as of January 1, 2017 as specified in R.S. 37:3445 as specified in R.S. 37:3445 and may adopt any revisions or additions deemed appropriate or necessary by the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3441-3452 and R.S. 36:478(I).

HISTORICAL NOTE: Promulgated by the Department of Social Services, Licensed Professional Vocational Rehabilitation

Counselors Board of Examiners, LR 15:276 (April 1989), amended LR 45:574 (April 2019).

Chapter 16. Code of Professional Ethics for Licensed Rehabilitation Counselors

§1600. General

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3441-3452 and 36:478.I.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Vocational Rehabilitation Counselors Board of Examiners LR 28:491 (March 2002), repealed LR 45:574 (April 2019).

§1601. Code of Ethics

A. Pursuant to R.S. 37:3445D, the Code of Professional Ethics for Rehabilitations Counselors created and adopted by the Commission of Rehabilitation Counselor Certification for its Certified Rehabilitation Counselors in September 2016 and effective as of January 1, 2017 is hereby adopted by reference. A link to the code can be found at www.lrcboard.org.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3441-3452 and 36:478.I.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Vocational Rehabilitation Counselors Board of Examiners LR 28:491 (March 2002), amended LR 45:574 (April 2019).

§1602. Canon 2: Client-Counselor Relationship

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S.37:3441-3452 and 36:478.I.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Vocational Rehabilitation Counselors Board of Examiners LR 28:492 (March 2002), repealed LR 45:574 (April 2019).

§1603. Canon 3: Client Advocacy

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S.37:3441-3452 and 36:478.I.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Vocational Rehabilitation Counselors Board of Examiners LR 28:493 (March 2002), repealed LR 45:574 (April 2019).

§1604. Canon 4: Professional Relationships

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S.37:3441-3452 and 36:478.I.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Vocational Rehabilitation Counselors Board of Examiners LR 28:493 (March 2002), repealed LR 45:574 (April 2019).

§1605. Canon 5: Public Statement/Fees

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S.37:3441-3452 and 36:478.I.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Vocational Rehabilitation Counselors Board of Examiners LR 28:493 (March 2002), repealed LR 45:574 (April 2019).

§1605. Canon 5: Public Statement/Fees

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S.37:3441-3452 and 36:478.I.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Vocational

Rehabilitation Counselors Board of Examiners LR 28:493 (March 2002), repealed LR 45:574 (April 2019).

§1605. Canon 5: Public Statement/Fees

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S.37:3441-3452 and 36:478.I.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Vocational Rehabilitation Counselors Board of Examiners LR 28:493 (March 2002), repealed LR 45:574 (April 2019).

§1606. Canon 6: Confidentiality

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S.37:3441-3452 and 36:478.I.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Vocational Rehabilitation Counselors Board of Examiners LR 28:494 (March 2002), repealed LR 45:574 (April 2019).

§1607. Canon 7: Assessment

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S.37:3441-3452 and 36:478.I.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Vocational Rehabilitation Counselors Board of Examiners LR 28:494 (March 2002), repealed LR 45:575 (April 2019).

§1608. Canon 8: Research Activities

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S.37:3441-3452 and 36:478.I.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Vocational Rehabilitation Counselors Board of Examiners LR 28:495 (March 2002), repealed LR 45:575 (April 2019).

§1609. Canon 9: Forensic Activities

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S.37:3441-3452 and 36:478.I.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Vocational Rehabilitation Counselors Board of Examiners LR 28:495 (March 2002), repealed LR 45:575 (April 2019).

§1610. Canon 10: Competence

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S.37:3441-3452 and 36:478.I.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Vocational Rehabilitation Counselors Board of Examiners LR 28:496 (March 2002), repealed LR 45:575 (April 2019).

§1611. Canon 11: LRC Credential

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S.37:3441-3452 and 36:478.I.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Vocational Rehabilitation Counselors Board of Examiners LR 28:496 (March 2002), repealed LR 45:575 (April 2019).

Mary Walker
Chairperson

1904#013

RULE

**Department of Natural Resources
Office of Conservation**

Alternate Source Wells (LAC 43:XIX.Chapter 8)

The Department of Natural Resources, Office of Conservation has amended LAC 43:XIX, Subpart 1 in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and pursuant to the power delegated under the laws of the state of Louisiana. The amendment is to condense rules and procedures from several departments and locations to provide a single location for a comprehensive compilation of procedural requirements for permitting, construction, operation, maintenance, plugging and abandonment of alternative source wells installed for production of subsurface water containing greater than 10,000 mg/l total dissolved solids (TDS). This Rule is hereby adopted upon the day of promulgation.

Title 43

NATURAL RESOURCES

Part XIX. Office of Conservation—General Operations

Subpart 1. Statewide Order No. 29-B

Chapter 8. Alternative Source Well Requirements

§801. Purpose

A. The purpose of this Chapter is to provide a comprehensive compilation of procedural requirements for permitting, construction, operation, maintenance, plugging and abandonment of alternative source wells installed for production of subsurface water containing greater than 10,000 mg/l total dissolved solids (TDS).

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 45:575 (April 2019).

§803. Applicability

A. The procedural requirements herein are intended for alternative source wells installed to produce water from water-bearing strata other than ground water aquifers, underground sources of drinking water (USDW's), or at depths or locations within ground water aquifers containing water greater than 10,000 mg/l TDS. Specific procedures are provided for the installation of alternative source wells with well screens installed in strata that is hydraulically connected and in communication with a ground water aquifer or USDW, and for installations not hydraulically connected and in communication with a ground water aquifer or USDW. All other water wells installed to produce water from ground water aquifers or USDW's must comply with the notification, construction and registration requirements of LAC 43:VI.Subpart 1.Chapter 1 and LAC 56:Part I, as applicable. In the event a well is permitted and installed pursuant to this Chapter and, after well completion, analytical results of water withdrawn from the well are below 10,000 mg/l TDS, the requirements of this Chapter shall remain in effect throughout the life of the well. Nothing

in this Chapter shall supersede, eliminate or alter operator responsibilities to comply with applicable Louisiana Mineral Code and/or other applicable requirements of LAC 43:XIX.Subpart 1 (Statewide Order No. 29-B).

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 45:575 (April 2019).

§805. Definitions

A. Glossary of Terms

Agent—the commissioner, the director of the engineering division, any of the district managers, or any other designee.

Alternative Source Well (ASW)—a well that produces water from a water-bearing stratum other than a ground water aquifer, underground source of drinking water (USDW's), or at a depth or location within a ground water aquifer containing water greater than 10,000 mg/l TDS.

a. *ASW-Type A*—an alternative source well with a well screen installed in stratum that is not hydraulically connected and not in communication with a ground water aquifer or USDW.

b. *ASW-Type B*—an alternative source well with a well screen installed in stratum that is below the base of the USDW but is hydraulically connected and in communication with a ground water aquifer or USDW, or at a depth or location within a ground water aquifer containing water greater than 10,000 mg/l TDS.

Aquifer—for purposes of this Chapter, a ground water bearing stratum of permeable rock, sand, or gravel.

Department—the Department of Natural Resources, Office of Conservation of the state of Louisiana

District Manager—the head of any one of the districts of the state under the Office of Conservation, Engineering Division, and as used, refers specifically to the manager within whose district the well or wells are located.

Ground Water—for purposes of this Chapter, water suitable for any beneficial purpose percolating below the earth's surface which contains less than 10,000 mg/l total dissolved solids.

LAC—Louisiana Administrative Code.

Mg/l—milligrams per liter.

TDS—total dissolved solids.

Rework or Reworking—rehabilitation or modification of an alternative source well to increase its efficiency, restore its capacity, and/or improve its water quality. Methods of reworking alternative source wells include, but are not limited to removing and replacing the screen, regravelling the screen, placing a new screen within the old screen, placing a liner pipe within the old casing or redeveloping a well by surging, acidizing, jetting, etc.

Underground Source(s) of Drinking Water (USDW or USDW's)—water which contains a sufficient quantity of ground water to supply a public water system, currently supplies drinking water for human consumption or contains fewer than 10,000 mg/l total dissolved solids.

Water Well—any well drilled or constructed for the principal purpose of producing ground water.

Water Well Contractor—a licensed contractor who drills all ground water wells, test and pilot holes, monitoring well, observation wells, heat pump wells and holes, and

geotechnical boreholes, and/or plugging and abandoning wells or holes, excluding oil and gas wells.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 45:576 (April 2019).

§807. General Requirements

A. All ASW's shall be permitted, constructed, maintained and plugged and abandoned in accordance with the requirements of this Chapter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 45:576 (April 2019).

§809. Application to Drill

A. The drilling permit application requirements included in this section shall apply to all Type A and B ASW's.

B. All applications for permits to drill alternative source wells shall be made on Form MD-10-R or revisions thereof, and mailed or delivered to the district office with one copy mailed or delivered to the department's Environmental Division. These applications, in duplicate, shall be accompanied by three copies of the location plat, preferably drawn to a scale of 1000 feet to the inch. The plats shall definitely show the amount and location of the acreage with reference to quarter-section corners, or other established survey points. There shall also be shown all pertinent lease and property lines, leases, offset wells, and the location and distance from the well to the nearest shoulder of any interstate highway within the boundaries of the plat. Plats must have well locations certifications either written on or attached to the well location plats and this certification must be signed by a registered civil engineer, qualified surveyor or a qualified engineer regularly employed by the applicant. If possible the application card shall give the name and address of the drilling contractor, otherwise the information, as soon as determined, shall be supplied by letter to the district manager.

1. Applicants that receive a drilling permit for an alternative source well located within 1,000 feet of an interstate highway shall furnish a copy of the approved drilling permit and the certified location plat to the appropriate state and local authorities, including all emergency responders.

C. No alternative source well shall be drilled, nor shall the drilling of such well be commenced, before a permit for such well has been issued by the Office of Conservation; furthermore, any work, such as digging pits, erecting buildings, derricks, etc., which the operator may do or have done, will be done at his own risk and with the full understanding that the Office of Conservation may find it necessary to change the location or deny the permit because of the rules and regulations applying in that instance.

D. No alternative source well shall commence drilling below the surface casing until a sign has been posted on the derrick, and subsequently on the well, showing the operator of record of the well, name of lease, section, township, range, and the serial number under which the permit was issued. The obligation to maintain a legible sign remains until abandonment.

E. In order to make the designation of the well, as referred to above, more uniform throughout the state, and thus to facilitate the handling of all matters relative to any particular well, wells shall be named in accordance with LAC 43:XIX.103.E.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 45:576 (April 2019).

§811. ASW-Type B Notification Requirements

A. In addition to the drilling permit application requirements of LAC 43:XIX.809 above, Type B ASW operators must comply with the following notification requirements.

1. Operators proposing to install Type B ASW's must provide to the department's Environmental Division at least 90 days prior to well installation scientifically sound and objective information from a Louisiana licensed professional engineer or geologist certifying and definitively demonstrating that proposed water production from such wells will only yield water containing greater than 10,000 mg/l TDS.

2. In the absence of satisfactory information verifying compliance with LAC 43:XIX.811.A above, prior to, or after installation and/or operation of a Type B ASW, the Type B ASW operator shall provide to the department's Environmental Division a properly completed Water Well Notification Form (Form GWR-01) at least 60 days prior to well installation if not already installed, otherwise as required by the Department, for review and imposition of any restrictions or other action deemed necessary by the Department pursuant to LAC 43:VI.705 and LAC 43:VI.707.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 45:576 (April 2019).

§813. All Other Applications

A. All applications for permits to rework, repair (except ordinary maintenance operations), abandon (plug and abandon), acidize, deepen, perforate, perforate and squeeze, plug (plug back), plug and perforate, plug back and side-track, plug and squeeze, pull casing, side-track, squeeze, squeeze and perforate, workover, cement casing or liner as workover feature, or when a well is to be killed or directionally drilled, shall be made to the district office on Form DM-4R, as revised or replaced, and a proper permit shall be received from the district manager before work is started. Upon permit approval and prior to performing any permitted work activities, the well operator shall provide written notification of the permitted activity to the department's Environmental Division. A description of the work done under the above cited work permits shall be furnished on the reverse side of the Well History and Work Resume Report (Form WH), which form shall be filed with the department's district office in which the well is located within 20 days after the permitted work activity is completed. At least 12 hours prior notice of the proposed operations shall be given the district manager and/or an offset operator in order that one of them may witness the work. If the district manager fails to appear within 12 hours,

the work may be witnessed by the offset operator, but failing in this, the work need not be held up longer than 12 hours. This Rule shall not deter an operator from taking immediate action in an emergency to prevent damage.

B. When a service company, other than the drilling contractor, cements, perforates or acidizes, either before or after completion of an alternative source well, the service company shall furnish the district manager with legible exact copies of reports furnished the owner of the well.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 45:577 (April 2019).

§815. Financial Security

A. Unless otherwise provided by the statutes, rules and regulations of the Office of Conservation, financial security shall be required by the operator of record (operator) of an alternative source well pursuant to LAC 43:XIX.104.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 45:577 (April 2019).

§817. Records

A. Electrical logs, when run, shall be submitted in an electronic format to the Office of Conservation in accordance with LAC 43:XIX.107.

B. At the request of the commissioner or his agent, the district office shall be supplied with available field maps showing lease lines and well locations for all producing areas within the district pursuant to LAC 43:XIX.107.A.

C. A properly completed Well History and Work Resume Report (Form WH) shall be timely filed with the district office in which the alternative source well is located within 20 days after completion of the well. This report shall be filed on forms furnished by the Department or on like forms as reproduced by the operator. Upon filing of Form WH, the well operator shall provide written notification to the department's Environmental Division to inform of well completion.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 45:577 (April 2019).

§819. Construction, Operation and Maintenance

A. All alternative source wells shall be constructed, operated and maintained in a safe and environmentally protective manner at all times in accordance with the casing requirements of LAC 43:XIX.109, diverter systems and blowout preventer requirements of LAC 43:XIX.111, casing head requirements of LAC 43:XIX.113, and at the discretion of the district manager.

B. Each alternative source well operator shall so conduct his operations and maintain his equipment as to reduce to a minimum the danger of explosion or fire and consequent waste, and implement all applicable requirements of LAC 43:XIX.115.

C. The inspectors and engineers of the Office of Conservation shall have access to the mud records of any drilling well, except those records which pertain to special muds and special work with respect to patentable rights, and

shall be allowed to conduct any essential test or tests on the mud used in the drilling of a well. When the conditions and tests indicate a need for a change in the mud or drilling fluid program in order to insure proper control of the well, the district manager shall require the operator or company to use due diligence in correcting any objectionable conditions.

D. The district manager shall be notified immediately by the new operator whenever a change of operator occurs. This must be accomplished by submitting Office of Conservation Form MD-10-RA (application for amended permit to drill for minerals) to reflect the new operator. Upon filing of Form MD-10-RA, the well operator shall provide written notification to the department's Environmental Division to inform of the change of operator.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 45:577 (April 2019).

§821. Plugging and Abandonment

A. Plugging and abandonment of all alternative source wells shall be conducted in a safe and environmentally protective manner in accordance with the applicable plugging and abandonment requirements of LAC 43:XIX.137 and at the discretion of the district manager.

B. The responsibility of plugging any well over which the commissioner of conservation has jurisdiction shall be the owner(s) of record.

1. In the event any owner(s) responsible for plugging any well fails to do so, and after a diligent effort has been made by the department to have said well plugged, the commissioner may call a public hearing to show cause why said well was not plugged.

2. The commissioner or his agent may require the posting of a reasonable bond with good and sufficient surety in order to secure the performance of the work of proper abandonment.

3. The district manager shall be notified immediately by the new operator whenever a change of operator occurs. This must be accomplished by submitting Office of Conservation Form MD-10-RA (application for amended permit to drill for minerals) to reflect the new operator. Upon filing of Form MD-10-RA, the well operator shall provide written notification to the department's Environmental Division to inform of the change of operator.

C. Plugging Procedures

1. Notification of intention to plug any well or wells over which the commissioner of conservation has jurisdiction, shall be given to the appropriate district manager prior to the plugging thereof. Notification shall be made in writing to the district office in the form of a work permit (Form DM-4 Rev.) for which an original and three copies are required. Where plugging involves a well with a rig on location, the district manager may grant verbal approval to plug and abandon the well provided the work permit is subsequently submitted. Any operator who fails to comply with this requirement may be required by the district manager to place additional cement plug(s) and/or prove the plug(s) are placed as the operator states they are.

2. Once an operator has been issued a work permit to plug and abandon a well by the appropriate district manager, then said operator shall be required to contact the

appropriate inspector a minimum of 12 hours prior to beginning the plugging operations. During drilling and/or workover operations, the requirement to contact the appropriate inspector a minimum of 12 hours prior to beginning the plugging operations shall be waived at the time verbal notification is made to the district office.

3. In plugging wells, it is essential that all oil or gas and ground water bearing formations be protected pursuant to LAC 43:XIX.137.F.3.

4. Upon plugging any well for any cause, a complete record thereof shall be made out, duly verified and filed in triplicate on Form P&A and Form WH-1 in the district office within 20 days after the plugging of such well. A cementing report shall be filed with the plugging report. Upon filing of Form P&A, the well operator shall provide written notification to the department's Environmental Division to inform of completion of well plugging and abandonment.

D. Well to be Used for Fresh Water. When the well to be plugged may be safely used as a fresh-water well and the owner or owners of the well have, by a mutual written agreement with the landowner, agreed to turn the well over to the landowner for that purpose, then the well need not be filled above the plug set below the fresh-water formation; provided, however, that the signed agreement or (if recorded in the public records) a certified copy thereof be filed with the appropriate district manager, which shall relieve the owner or owners who turn the well over to the landowner from responsibility above the plug. The plugging report shall indicate that the well has been or will be converted to a fresh water well. The well operator shall provide written notification of intent to use the well for production of fresh water in accordance with the Ground Water Management requirements of LAC 43:VI.Subpart 1 and maintain compliance with the same.

E. Temporary Abandonment of Drilling Wells. Any drilling well which is to be temporarily abandoned and the rig moved away, shall be mudded and cemented as it would be for permanent abandonment, except a cement plug at the surface may be omitted.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 45:578 (April 2019).

§823. Exceptions and Hearings

A. If any operator can show to the commissioner that the drilling and producing methods herein prescribed or the particular method by him prescribed for securing tests of wells, or any other part of this order, as applies to his well or wells, result in waste or as to such operator are unreasonable, the commissioner may enter such an order, as a special exception to the aforesaid rules and regulations, as will prevent such waste or eliminate such unreasonable restraint, as may result from the application of the aforesaid rules and regulations to the well or wells of such operators; provided, however, that before any operator shall be allowed the benefit of an order granting an exception as authorized by this Section, such operator must establish that such exception, if granted, will not result in waste in the field as a whole or give him an inequitable and unfair advantage over another operator or other operators in the field. No special exception will be granted except upon written application,

fully stating the alleged facts, which shall be the subject of a hearing to be held not earlier than 10 days after filing of the application. Prior to the hearing upon such application, at least 10 days notice thereof shall be given by publication to all operators in the field. In addition to said notice by publication, adjacent operators where appropriate may be given at least 10 days notice of said hearing by personal service, or by registered mail.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 45:578 (April 2019).

§825. Application of Special Field Orders

A. This order shall be cumulative of, and in addition to, all special orders, rules and regulations affecting the drilling and production of alternative source wells, as heretofore promulgated. In case of any conflict between this order and the special orders on specific fields, said special orders on specific fields shall govern.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 45:578 (April 2019).

§827. Drilling Alternative Source Wells

A. The possession of a Louisiana Water Well Contractor's License is not required for the installation of alternative source wells. Drillers of alternative source wells shall have the professional knowledge and expertise to successfully complete all aspects of installation of alternative source wells in a safe and environmentally protective manner in accordance with the requirements of this Chapter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 45:579 (April 2019).

§829. Reporting Volumes of Source Water Produced

A. All volumes of water produced from an alternative source well being used for hydraulic fracture stimulation purposes shall be recorded on Form WH-1 Supplemental Page 3 in accordance with LAC 43:XIX.118.

B. The alternative source well shall be identified by the serial number and recorded on Form WH-1 Supplemental Page 3 under "OTHER WATER SOURCE."

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 45:579 (April 2019).

Gary P. Ross
Assistant Commissioner

1904#035

RULE

Department of Natural Resources Office of Conservation

Plugging Credits
(LAC 43:XIX.104)

The Department of Natural Resources, Office of Conservation has amended LAC 43:XIX, Subpart 1 in

accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and pursuant to the power delegated under the laws of the state of Louisiana. The amendment and adoption are made implement Act 526 of the 2016 Regular Session which authorizes the Commissioner to establish a program to allow for transferrable plugging credits in lieu of the bond with security in order to promote the plugging of orphaned oilfield sites and oilfield sites that have been inactive for at least five years. This Rule is hereby adopted upon the day of promulgation.

Title 43

NATURAL RESOURCES

Part XIX. Office of Conservation—General Operations

Subpart 1. Statewide Order No. 29-B

Chapter 1. General Provisions

§104. Financial Security

A. - I.3. ...

J. Plugging Credit Certificate Program

1. A Plugging Credit may be applied to any new or existing well in lieu of Financial Security required by Subsections A-H of this Section, on a 1 for 1 or 2 for 1 basis. Said credits may be obtained by:

a. one credit shall be awarded for plugging and site restoration of an orphan well after 8/1/16;

b. one half credit shall be awarded for plugging and site restoration of an operator's existing well that has been inactive for a minimum of five years on or after 8/1/16.

2. Wells must be plugged and abandoned and sites restored per Office of Conservation rules and regulations. All wells/sites must pass a final inspection before a plugging credit certificate will be issued.

3. Plugging credit certificates will be granted to operators who plug qualifying wells under Section 1.a and 1.b once application is made via Form APCC, within 3 years of the date plugging occurred.

a. Plugging credit certificate will expire five years from the date issued unless used, in which case the plugging credit certificate will expire upon the proper plugging and abandonment of the well for which it is used.

b. Plugging credit certificates are transferrable to active operators via Form APCCO.

4. Plugging credit certificates can be applied to an existing or newly drilled well, on a one credit per well basis, which meet all of the following:

a. is in the same field as the plugged well;

b. is the same location type (land, inland water, or offshore) as the plugged well;

c. has a total depth that does not exceed 2000' more than the total depth or plug back depth, whichever is less, of the plugged well. (All depths TVD)

5. Plugging credits may only be utilized by an operator in good standing. To be considered in good standing, an operator must not have any outstanding compliance orders at the time the plugging credit is used.

6. Once applied to a well, Plugging Credit Certificates cannot be transferred to another well. Plugging Credit Certificates cannot be combined with Financial Security. Each well must be fully covered by Financial Security or a Plugging Credit Certificate, not a combination of both mechanisms. In the event a plugged well approved under Subparagraphs 1.a. or 1.b. fails, the corresponding plugging

credit certificate will be revoked and Financial Security will be required immediately.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 26:1306 (June 2000), amended LR 27:1917 (November 2001), LR 41:952 (May 2015), LR 43:535 (March 2017), LR 45:579 (April 2019).

Richard P. Ieyoub
Commissioner

1904#036

RULE

Department of Public Safety and Corrections Corrections Services

Special Agents (LAC 22:I.323)

In accordance with the provisions of the Administrative Procedure Act (R.S. 49:950), the Department of Public Safety and Corrections, Corrections Services has amended the contents of §323, Special Agents. This Rule is hereby adopted upon promulgation.

Title 22

CORRECTIONS, CRIMINAL JUSTICE AND LAW ENFORCEMENT

Part I. Corrections

Chapter 3. Adult Services

Subchapter A. General

§323. Special Agents

A. Purpose—to state the procedures governing special agent appointments and the duties of special agents.

B. Applicability—deputy secretary, assistant secretary, chief of operations, regional wardens, wardens, director of probation and parole, director of prison enterprises and those employees authorized as special agents. Each unit head shall ensure 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 that special agents may be appointed at the secretary's discretion and these special agents shall be appointed from employees who have attained the rank of sergeant or probation and parole officer I and these special agents may carry weapons exposed or concealed while in the performance of their duties in the same manner as law enforcement officers.

D. Definition

Employee—any person employed full-time, part-time, or on temporary appointment by the department.

E. Procedures

1. Criteria

a. Special agents shall be appointed from employees who have attained the rank of sergeant or probation and parole officer I, pursuant to R.S. 15:825.2.

2. Authority to Appoint

a. The secretary shall be authorized at his discretion to appoint special agents, pursuant to R.S. 15:825.2.

3. Applications

a. Employees at State Prisons, Headquarters, and Prison Enterprises

i. The warden, undersecretary, or director of prison enterprises wishing to have an employee (at a state

prison, headquarters, or prison enterprises, respectively) appointed as a special agent shall submit an application to the chief of operations. The application shall include the following:

(a) the applicant's name and social security number;

(b) a current rap sheet for the applicant;

(c) a domestic violence questionnaire (form A-02-023-A) completed by the applicant;

(d) a precise statement regarding the applicant's need to carry a weapon and the circumstances in which the applicant will be authorized to carry a weapon; and

(e) certification by the warden, undersecretary, or director of prison enterprises certifying the applicant has been trained to use the weapon he will carry and has achieved the necessary qualifying score on the firing range.

b. Employees at Probation and Parole

i. Probation and parole district managers wishing to have an employee (at a probation and parole district office) appointed as a special agent or probation and parole employees at headquarters wishing to be appointed as a special agent shall submit an application to the director of probation and parole. The application shall include the following:

(a) The applicant's name and social security number;

(b) A current rap sheet for the applicant;

(c) A domestic violence questionnaire (form A-02-023-A) completed by the applicant; and

(d) certification by the district manager (for employees at a probation and parole district office) or the director of probation and parole (for an employee at HQ P and P) that the applicant has successfully completed all training as required by probation and parole's firearm training policy.

c. Employees at Private Prisons

i. Wardens of private prisons wishing to have an employee appointed as a special agent shall submit an application to the chief of operations. The application shall include:

(a) the applicant's name and social security number;

(b) a current rap sheet for the applicant;

(c) a domestic violence questionnaire (form A-02-023-A) completed by the applicant;

(d) a precise statement regarding the applicant's need to carry a weapon and the circumstances in which the applicant will be authorized to carry a weapon; and

(e) certification by the warden certifying the applicant has been trained to use the weapon he will carry and has achieved the necessary qualifying score on the firing range.

d. The chief of operations or the director of probation and parole shall review every application received and either:

i. recommend the applicant be appointed as a special agent and submit to the secretary for review, or

ii. decline to recommend the applicant to be appointed as a special agent and send notification of declination to the individual who submitted the application.

e. The appointment of a special agent shall be at the discretion of the secretary.

RULE

**Department of Public Safety and Corrections
Gaming Control Board**

Computer System Requirement (LAC 42:III.3305)

The Department of Public Safety and Corrections, Gaming Control Board, in accordance with R.S. 27:15, R.S. 27:24, and the provisions of the Administrative Procedures Act, R.S. 49:950 et seq., has amended LAC 42:III.3305.G—Surveillance and Division Room Requirements. This proposed rule change amends the citation within subsection G to create uniformity with the new chapter of Part III of Title 42 of the Administrative Code, Chapter 28—Casino Computer Systems. This Rule is hereby adopted on the day of promulgation.

Title 42

LOUISIANA GAMING

Part III. Gaming Control Board

Chapter 33. Surveillance

§3305. Surveillance and Division Room Requirements

A. - F. ...

G. The division room shall be furnished with all necessary furniture and fixtures as specified by the division, be equipped with a security radio and house telephone, and shall house a dedicated computer which provides computer accessibility for division agents to review, monitor and record data with the same functionality and specifications as provided in §2825 of Chapter 28 of this Part.

H. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 38:1665 (July 2012), amended LR 45:581 (April 2019).

Ronnie Jones
Chairman

1904#016

RULE

**Department of Public Safety and Corrections
Gaming Control Board**

State Tax Clearance (LAC 42:III.2115 and 2325)

The Louisiana Gaming Control Board pursuant to R.S. 27:15 and R.S. 27:24 has amended LAC 42:III.2115.B and LAC 42:III.2325.H. The rule change provides for enforcement action against applicants for a gaming employee permit for failure to provide only a state tax clearance. The rule change will require that an applicant for a gaming employee permit provide only a state tax clearance and will remove the requirement of providing a tax clearance from the Internal Revenue Service. This Rule is hereby adopted on the day of promulgation.

- 4. Appointment as a Special Agent
 - a. Upon approval of an application and appointment of an applicant as a special agent, the secretary shall issue:
 - i. for employees at state prisons, headquarters, and prison enterprises, a commission card which serves as authority to carry a firearm and/or perform duties in accordance with R.S. 15:825.2; or
 - ii. for employees at probation and parole, a memorandum to the director of probation and parole certifying the employee is commissioned as a "special agent" as well as a commission card; or
 - iii. for employees at private prisons, a memorandum to the warden certifying the employee is commissioned as a "special agent" as well as a commission card.
 - iv. employees issued a commission card shall be required to carry the card at all times during the performance of his duties. The undersecretary, director of prison enterprises, or warden shall ensure that commission cards for employees appointed as special agents are kept current.

- 5. Duties of Special Agents
 - a. The duties of a special agent are to provide assistance to other law enforcement agencies to improve public safety. These duties include, but are not limited to:
 - i. execution of warrants;
 - ii. emergency aid and other assistance as requested;
 - iii. patrol duties; and
 - iv. detention and transportation of arrestees.

- 6. Carrying of Weapons
 - a. Special agents may carry weapons exposed or concealed while in the performance of their duties in the same manner as law enforcement officers, pursuant to R.S. 15:825.2.

- 7. Equipping Special Agents
 - a. The unit head or designee shall be responsible for properly equipping special agents with adequate equipment for law enforcement duties as appropriate to the assignment, (i.e. bullet proof vests, service weapons, flash lights, etc.).

- 8. Employee Termination of a Special Agent
 - a. Upon an employee's termination, the commission card shall be surrendered to appropriate unit personnel.

- 9. Training
 - a. Special agents must be in compliance with the provisions of department regulation no. C-01-008 "Firearms Training" or division of probation and parole firearms training policy as applicable.

- b. Special agents who participate in community policing activities must successfully complete training appropriate to their assignments as defined by institutional or division of probation and parole policy.

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

HISTORICAL NOTE: Promulgated by the Department of Corrections, Office of Adult Services, LR 4:487 (December 1978), amended by the Department of Public Safety and Corrections, Corrections Services, LR 37:2184 (July 2011), LR 45:580 (April 2019).

James M. Le Blanc
Secretary

1904#043

Title 42
LOUISIANA GAMING
Part III. GAMING CONTROL BOARD
Chapter 21. Licenses and Permits
§2115. Tax Clearances Required of an Applicant for a Gaming Employee Permittee

- A. ...
 B. Failure to provide the state tax clearances required by Subsection A of this Section may constitute grounds for delaying consideration or for denial of the application.
 C. - C.2. ...
 AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.
 HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 38:1612 (July 2012), amended LR 45:581 (April 2019).

Chapter 23. Compliance, Inspections and Investigations
§2325. Administrative Actions and Penalty Schedule

- A. - G. ...
 H. Penalty Schedule

Section Reference	Description	Base Penalty	Proscriptive Period (Months)
Louisiana Administrative Code, Title 42, Part III			
Chapter 21. Licenses and Permits			
* * *			
2115	State Tax Clearances Required of a Gaming Employee Permittee	\$250	24
* * *			

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.
 HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 38:1620 (July 2012), amended LR 45:582 (April 2019).

Ronnie Jones
 Chairman

1904#017

RULE

Department of Public Safety and Corrections
Office of State Police

Accident Reports (LAC 55:I.Chapter 8)

In accordance with the provisions of R.S. 32:398(F) relative to the authority of the Office of State Police to promulgate and enforce rules, the Office of State Police has adopted the following Rule regarding the establishment of costs for copies of accident reports. This Rule is hereby adopted on the day of promulgation.

Title 55
PUBLIC SAFETY
Part I. State Police

Chapter 8. Accident Reports
§801. Costs of Accident Reports

A. Pursuant to R.S. 32:398(F) the following fee scale shall be used for the sale of accident reports.

1. For a certified, paper copy or electronic copy of an accident report not exceeding two pages, the cost shall be \$1.50.
2. For a certified, paper copy of an accident report exceeding two pages, the cost shall be \$16.50.
3. For an electronic copy of an accident report exceeding two pages, the cost shall be \$11.50.

B. Accident reports are available for purchase online at www.lsp.org or at each local Troop office.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:398(F).

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, LR 45:582 (April 2019).

§802. Third Party Convenience Fee

A. Notice is hereby given that pursuant to R.S. 49:316.1(A)(2), the following third party convenience fee(s) shall apply to the purchase of an accident report:

1. For the purchase of an accident report by credit cards and similar types, the third party convenience fee shall be \$2.50 + 2.5 percent.
2. For the purchase of an accident report by ACH payments and similar types, the third party convenience fee shall be \$2.50 + \$.100.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:398(F).

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, LR 45:582 (April 2019).

Lt. Col. Jason Starnes
 Chief Administrative Officer

1904#050

RULE

Department of Public Safety and Corrections
Office of State Police

Issuance of Concealed Handgun Permits
 (LAC 55:I.Chapter 13)

In accordance with the provisions of R.S. 40:1379.1 relative to the authority of Louisiana Department of Public Safety to promulgate and enforce rules pursuant to the issuance of concealed handgun permits, Louisiana Department of Public Safety, Louisiana State Police hereby has amended rules under Title 55, Part I, §§1301, 1305, 1307, 1309, and 1315 in relation to requiring certified copies of court minutes as opposed to affidavits, clarification of arrest record, failing to disclose an arrest, requiring fingerprint cards when fingerprint card is not already on file, suspension of permits for DWI arrest, returning invalid permits, and reapplying for permit after denial. This Rule is hereby adopted on the day of promulgation.

Title 55
PUBLIC SAFETY
Part I. State Police

Chapter 13. Issuance of Concealed Handgun Permits
§1301. Applications and Permits

A. - E. ...

F. Arrest Record. If the applicant has an arrest record, he shall present with the application a certified copy from the clerk of court or district attorney of the parish or county in which the arrests were made which specifies the disposition on all charges. Arrest record shall include an arrest, summons, nolle prossed charges, dismissed charges, expunged charges, convictions which are set aside and any pardon.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1379.1, 40:1379.3, 40:1381, and 40:1382.

HISTORICAL NOTE: Promulgated by the Department of Public Safety, Office of State Police, LR 1:495 (November 1975), amended by the Department of Public Safety and Corrections, Office of State Police, LR 22:845 (September 1996), LR 38:1279 (May 2012), repromulgated LR 38:1415 (June 2012), amended LR 43:671 (April 2017), LR 45:582 (April 2019).

§1305. Definitions

A. ...

* * *

Concealed Handgun—any handgun as defined in R.S. 40:1379.3(J)(3) which is carried on a person in such a manner as to hide or obscure the handgun from plain view.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1379.1, 40:1379.3, 40:1381, and 40:1382.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, LR 22:846 (September 1996), amended LR 28:1483 (June 2002), LR 38:1280 (May 2012), LR 43:672 (April 2017), LR 45:583 (April 2019).

§1307. Applications and Permits

A. - B.9. ...

10. Incomplete applications, including failure to pay fees and failure to disclose an arrest or criminal offense, shall result in the rejection or denial of a permit application.

11. ...

12. Any false statement or improper notarization contained in any report, disclosure, application, permit form, or any other document required by the department shall be a violation of these rules and shall be cause for denial, suspension, or revocation of the permit.

B.13. - D.4. ...

5. Fingerprint cards shall be required upon renewal and/or submission of training for a lifetime concealed handgun permit if the Department of Public Safety determines that there is no Concealed Handgun Permit fingerprint card submission on file. Failure to comply shall be grounds for a denial or suspension.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1379.1, 40:1379.3, 40:1381, and 40:1382.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, LR 22:846 (September 1996), amended LR 28:1483 (June 2002), LR 38:1281 (May 2012), repromulgated LR 38:1415 (June 2012), amended LR 43:673 (April 2017), LR 45:583 (April 2019).

§1309. Permits

A. - G. ...

H. An otherwise lawful permit shall be considered automatically suspended and not valid while the permittee is under the influence of alcoholic beverages or a controlled dangerous substance. For purposes of these rules and the applicable law, a permittee shall be considered under the

influence as evidenced by a blood alcohol reading of 0.05 grams percent or greater by weight of alcohol in the blood, or when a blood test or urine test shows any confirmed presence of a controlled dangerous substance as defined in R.S. 40:961 and 964. If permittee is arrested for DWI (R.S. 14:98 provisions), the suspension of the concealed handgun permit is indefinite until the DWI is formally resolved with a dismissal, nolle prose, or if the permittee is found not guilty of DWI, or until admission into and completion of a district attorney's pre-trial diversion program. Permittee shall provide proof of official disposition by a certified copy from the court or the district attorney's Office.

I. For any arrest whereby the crime is punishable by a penalty which is disqualifying, the permit shall become invalid by suspension and remain invalid until the official judicial disposition of the charge. The concealed handgun permit shall be returned to the Concealed Handgun Permit Office at Louisiana State Police within 15 days after notification from the Concealed Handgun Permit Office.

J. The deputy secretary shall automatically suspend a permit for six months if a permittee fails to comply with the provisions of R.S. 40:1379.3(I)(2).

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1379.1, 40:1379.3, 40:1381, and 40:1382.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, LR 22:848 (September 1996), amended LR 38:1282 (May 2012), LR 45:583 (April 2019).

§1315. Appeal and Hearing Procedures

A. Notice of Permit Denial and Appeal

1. ...

a. Option 1—Informal Review. The applicant shall have 10 business days to request an informal review of documentation and evidence provided by the applicant setting out reasons the denial should be considered improper. If the application denial is upheld after an informal review, he applicant may apply for a concealed handgun permit one year from the date of the denial letter. Reapplications one year following denial are reviewed as normal and not automatically approved. Should the applicant remain dissatisfied with the department's decision following this review process, the applicant may appeal this decision within 20 business days of receipt of the department's decision by requesting an administrative hearing. Any such hearing requested by an applicant shall be scheduled and conducted in accordance with the Administrative Procedure Act pursuant to R.S. 49:950 et seq.

b. Option 2—Formal Appeal. The applicant may appeal the denial by the department in writing within 30 days of receipt of the department's decision by requesting an administrative hearing. If an administrative hearing is held, and the administrative law judge upholds the denial, the applicant may apply for a concealed handgun permit one year from the date of the signed decision by the administrative law judge. Reapplications one year following denial are reviewed as normal and not automatically approved. Any such hearing requested by an applicant shall be scheduled and conducted in accordance with the Administrative Procedure Act pursuant to R.S. 49:950 et seq.

A.2. - C.7. ...

8. If the application denial is for failure to disclose an arrest and the applicant chooses to reapply after the one year period, the applicant shall disclose the subject arrest and provide the disposition of the subject arrest on the next concealed handgun permit application.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1379, 40:1381, and 40:1382.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, LR 22:851 (September 1996), amended LR 38:1285 (May 2012), LR 43:675 (April 2017), LR 45:583 (April 2019).

Lt. Col. Jason Starnes
Chief Administrative Officer

1904#051

RULE

Department of Public Safety and Corrections Office of State Police

Photographs (LAC 55:I.Chapter 9)

In accordance with the provisions of R.S. 32:398(G) relative to the authority of the Office of State Police to promulgate and enforce rules, the Office of State Police hereby has adopted the following Rule regarding the establishment of costs for copies of photographs pertaining to accident reports. This Rule is hereby adopted on the day of promulgation.

Title 55 PUBLIC SAFETY Part I. State Police

Chapter 9. Photographs

§901. Costs of Photographs Pertaining to Accident Reports

A. Pursuant to R.S. 32:398(G), the following fee scale shall be used for the sale of photographs pertaining to accident reports:

1. For a proof sheet that includes thumbnails of all photographs, the cost shall be \$10 per sheet. Each sheet holds a maximum of 40 thumbnails.

2. For an individual photograph selected from the proof sheet, the cost shall be \$15 per individual photograph. A CD containing digital copies of only the photograph(s) purchased will be included.

3. For an entire set of photographs (with or without purchasing the proof sheet), the cost shall be \$10 per photograph. A CD containing digital copies of all photographs will be included.

4. For a replacement CD, the cost shall be \$10 per CD.

B. Photographs are available for purchase online at lsp.org, via facsimile to 225-925-4401, or via U.S. mail to: Office of State Police, Photo Lab, D-3, P.O. Box 66614, Baton Rouge, LA 70896.

C. Photographs and CDs will be shipped within three to five business days after receiving payment.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:398(G).

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, LR 45:584 (April 2019).

Lt. Col. Jason Starnes
Chief Administrative Officer

1904#049

Notices of Intent

NOTICE OF INTENT

Department of Civil Service Board of Ethics

Food and Drink Limit
(LAC 52:I.Chapter 17)

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., notice is hereby given that the Department of Civil Service, Louisiana Board of Ethics, has initiated rulemaking procedures to make amendments to the Rules for the Board of Ethics to bring the rules into compliance with current statutory provisions and Section 1115.1C of the Code of Governmental Ethics.

Title 52 ETHICS

Part I. Board of Ethics

Chapter 17. Code of Governmental Ethics

§1703. Food and Drink Limit

A. In accordance with R.S. 42:1115.1(C), beginning on July 1, 2019, the limit for food, drink or refreshments provided in R.S. 42:1115.1A and B is \$62.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1115.1.

HISTORICAL NOTE: Promulgated by the Department of Civil Service, Board of Ethics, LR 36:304 (February 2010), amended LR 36:1466 (July 2010), LR 38:1951 (August 2012), LR 39:3062 (November 2013) LR 40:1678 (September 2014), LR 41:1262 (July 2015), LR 44:1237 (July 2018).

Family Impact Statement

The proposed rule changes have no known impact on family formation, stability or autonomy, as described in R.S. 49:972.

Poverty Impact Statement

The proposed Rule changes have no known impact on poverty, as described in R.S. 49:972.

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.

Small Business Statement

The proposed Rule should not have any known or adverse impact on small business as described in R.S. 49:956.6

Public Comments

Interested persons may direct their comments to Kathleen M. Allen, Louisiana Board of Ethics, P.O. Box 4368, Baton Rouge, Louisiana 70821, telephone (225) 219-5600, until 4:45 p.m. on April 10, 2018.

Kathleen M. Allen
Ethics Administrator

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Food and Drink Limit

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed rule provides for setting a rule, which raises the monetary limit on the receipt of food and drink by a public employee and public servant from \$61 dollars to \$62 dollars pursuant to Section 1115.1C of the Code of Governmental Ethics. The estimated cost to implement the proposed rule change is \$168 in FY 18-19, which accounts for the cost to publish the Notice of Intent and the Rule in the State Register.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rule will have no anticipated effect on revenue collections of state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The proposed action will affect all public employees and public servants by setting a standard monetary limit on the receipt of food and drink.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule change will have no anticipated effect on competition and employment.

Kristy Gary
Deputy Ethics Administrator
1904#046

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—CCAP Household Eligibility
(LAC 28:CLXV.509 and 511)

In accordance with R.S. 17:6 and R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education proposes to amend *Bulletin 139—Louisiana Child Care and Development Fund Programs*. The proposed amendments will allow families experiencing homeless to qualify for CCAP more than once in a lifetime and allow for the federally mandated graduated phase out of CCAP to avoid the loss of early childhood care and education for this fragile population.

Title 28

EDUCATION

Part CLXV. Bulletin 139—Louisiana Child Care and Development Fund Programs

Chapter 5. CCAP Household Eligibility §509. Certification Requirements for Non- Categorically Eligible Households

A. - A.5.a.iv. ...

b. Exception. The employment and training activity requirements provided in this Paragraph may be waived 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.

c. - e. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 and 17:407.28. and 45 CFR Parts 98 and 99.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 42:43 (January 2016), amended LR 42:2175 (December 2016), LR 44:261 (February 2018), effective March 1, 2018, LR 45:

§511. Household Certification Period

A. Eligible households may be certified for up to 24 months.

B. Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 and 17:407.28. and 45 CFR Parts 98 and 99.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 42:44 (January 2016), amended LR 42:2176 (December 2016), LR 44:801 (April 2018), LR 45:

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 noon, May 10, 2019, to Shan N. Davis, Executive Director, Board of Elementary and Secondary Education, Box 94064, Capitol Station, Baton Rouge, LA 70804-9064. Written comments may also be hand delivered to Shan Davis, Executive Director, Board of Elementary and Secondary Education, Suite 5-190, 1201 North Third Street, Baton Rouge, LA 70802 and must be date stamped by the BESE office on the date received. Public comments must be dated and include the original signature of the person submitting the comments.

Shan N. Davis
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Bulletin 139—Louisiana Child Care and Development Fund Programs CCAP Household Eligibility

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There may be increased costs for the Louisiana Department of Education (LDE) for early childhood programs as a result of the proposed changes to child care assistance program (CCAP) eligibility criteria. The proposed revision will allow families experiencing homelessness to qualify for CCAP more than once in a lifetime and allow for the federally mandated graduated phase out of CCAP to avoid the loss of early childhood care and education for this population. There may be an increase in CCAP expenditures funded through the federal Child Care Development Fund to the extent families qualify for CCAP multiple times due to homelessness. The amount of any such increase is indeterminable at this time.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There are no estimated impacts on revenue collections as a result of the proposed policy revisions.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Families which experience homelessness may benefit from the proposed changes which will allow them to qualify for CCAP more than once in a lifetime and to continue receiving benefits during a phase down period, avoiding the loss of child care subsidies. The extent of these impacts is indeterminable at this time.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT
(Summary)

The proposed policy revisions will have no effect on competition and employment.

Beth Scioneaux
Deputy Superintendent
1904#054

Evan Brasseaux
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Board of Elementary and Secondary Education

Bulletin 745—Louisiana Teaching Authorizations of
School Personnel—Teaching Authorizations
Issuance, Denial, and Reinstatement
(LAC 28:CLXXII.Chapter 1)

In accordance with R.S. 17:6 and R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education proposes to amend *Bulletin 745—Louisiana Teaching Authorizations of School Personnel*. The proposed amendments will include a records review process to appeal denied and revoked Teaching Authorizations, as well as the provisional issuance/reissuance outlined in LAC 28:CXXXI.Chapter 9 (Actions Related to the Suspension/Denial and Revocation of Louisiana Certificates) of *Bulletin 746—Louisiana Standards for State Certification of School Personnel*.

Title 28

EDUCATION

**Part CLXXII. Bulletin 745—Louisiana Teaching
Authorizations of School Personnel**

Chapter 1. Teaching Authorizations

§103. Teaching Authorizations

- A. ...
- B. A TA will be denied to anyone who has:
1. - 2. ...
 3. been convicted of or pled *nolo contendere*, even if adjudication was withheld, to:
 - a. any felony offense;
 - b. a crime of violence outlined in R.S. 14:2(B);
 - c. a sex offense outlined in R.S. 15:541; or
 - d. any crime outlined in R.S. 15:587.1.
- C. - F. ...
- G. Crimes are reported under R.S. 15:587.1, and include convictions for attempt, or conspiracy to commit any of these offenses. Conviction or plea of *nolo contendere*, even if adjudication was withheld, will be considered for the purpose of issuance. In addition, expungement, first offender pardon, and pre-trial diversion are disclosed in criminal background checks conducted in accordance with R.S. 17:15. Crimes considered for issuance of teaching authorizations are outlined in LAC 28:CXXXI.904.A.1-3, *Bulletin 746—Louisiana Standards for State Certification of School Personnel*.
- H. Offenses of a jurisdiction other than Louisiana which, in the judgment of the bureau employee charged with responsibility for responding to the request, would constitute a crime under the provisions cited in Subsection A of this Section, and provisions listed under the federal criminal code having analogous elements of criminal and moral turpitude will be considered for the purpose of teaching

authorization eligibility. (Federal criminal code provisions are in title 18 of U.S.C.A., *Crimes and Criminal Procedure*.)

I. Convictions that are set aside pursuant to articles 893 or 894 of the *Louisiana Code of Criminal Procedure*, expunged, or which are pardoned subject to Louisiana first offender pardon laws nonetheless, will be treated as convictions for the purpose of denial, suspension, or revocation.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 44:2134 (December 2018), repromulgated LR 45:39 (January 2019), amended LR 45:

§104. Issuance of a Denied Teaching Authorization

A. Issuance will never be considered for individuals who have been convicted of a crime as outlined in LAC 28:CXXXI.904.A.3, *Bulletin 746—Louisiana Standards for State Certification of School Personnel*.

B. Issuance of a denied TA will not be considered until at least five years have elapsed from the date of entry of final conviction, offense, or censure.

C. A request for an appeal of a denied TA will be submitted by the employing school governing authority.

D. An LEA may apply to BESE for issuance of a TA after the lapse of time indicated and under the following conditions:

1. there have been no further convictions, submission of fraudulent documentation, participation in cheating, or professional license/certificate censure; and

2. in criminal cases, there has been successful completion of all conditions/requirements of any parole and/or probation. The applicant must provide relevant documentation. The applicant must provide a current state and FBI criminal history background check from the state police that is clean and clear and evidence that there has been successful completion and relevant documentation of all conditions/requirements of any parole or probation.

E. Documentation to be submitted with an appeal request will include:

1. court records of the conviction;
2. verification of satisfactory completion of sentence;
3. state and federal criminal background check (CBC);
4. letters of recommendation; and
5. signed assurance by school governing authority.

F. Board of Elementary and Secondary Education Responsibilities

1. The board will consider the request for issuance and documentation provided. The board is not required to conduct a records review for any crimes outlined in LAC 28:CXXXI.904.A.3, and may summarily deny a request for issuance of a TA.

2. When the board or its designees conduct an issuance records review, board staff will notify the applicant of a date, time, and place when a committee of the board will consider the applicant's request. Only the written documentation provided prior to the records review will be considered.

3. The board reserves the right to accept or reject any document offered as evidence of rehabilitation and the right to determine if adequate rehabilitation has occurred and will

determine if and when an applicant is eligible for issuance of a TA.

4. In accordance with R.S. 42:17(A)(1), the board may meet in executive session for discussion of the character, professional competence, or physical or mental health of a person.

5. The board may deny a request for a records review for any applicant who:

- a. failed to disclose prior criminal convictions or expungements;
- b. falsified academic records;
- c. has been found to have participated in cheating in the administration of standardized tests;
- d. received further criminal convictions or participated in cheating; or
- e. has had professional license/certificate censure.

6. The committee of the board will make a recommendation to the full board regarding whether the teaching authorization should be issued to the applicant. Board staff will notify the applicant of the action of the board.

7. The action of the board is a final decision and can only be appealed to a court of proper jurisdiction in accordance with law.

G. A teaching authorization may be issued provisionally for a period of 90 days and pending ratification by BESE via a records review process and contingent upon the following:

1. the felony conviction occurred more than 10 years prior;
2. there are no additional convictions or repeat offenses; and
3. the conviction does not involve violence, sex, children, or any crime outlined in R.S. 15:587.1.

H. Candidates meeting criteria for provisional issuance will be issued a TA valid for 90 days from the date of issuance. The provisional issuance is subject to ratification of the board at the next convening meeting of BESE. If a forthcoming records review is not ratified by the board, the TA will be suspended and revoked.

I. Convictions for crimes of violence or crimes outlined in R.S. 15:587.1 must be considered on appeal directly to BESE and are not eligible for provisional issuance and board ratification.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 45:

§111. Reinstatement of Teaching Authorizations

A. Reinstatement will never be considered for an educator who has been convicted of a crime as outlined in LAC 28:CXXXI.904.A.3, *Bulletin 746—Louisiana Standards for State Certification of School Personnel*.

1. Repealed.

B. - E.7. ...

F. A teaching authorization may be reinstated provisionally for a period of 90 days and pending ratification by BESE via a records review process and contingent upon the following:

1. the felony conviction occurred more than 10 years prior;

2. there are no additional convictions or repeat offenses; and

3. the conviction does not involve violence, sex, children, or any crime outlined in R.S. 15:587.1.

G. Candidates meeting criteria for provisional issuance will be issued a TA valid for 90 days from the date of issuance. The provisional issuance is subject to ratification of the board at the next convening meeting of BESE. If a forthcoming records review is not ratified by the board, the TA will be suspended and revoked.

H. Convictions for crimes of violence or crimes outlined in R.S. 15:587.1 must be considered on appeal directly to BESE and are not eligible for provisional issuance and board ratification.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 44:2136 (December 2018), repromulgated LR 45:40 (January 2019), amended LR 45:

Family Impact Statement

In accordance with section 953 and 974 of title 49 of the *Louisiana Revised Statutes*, there is hereby submitted a Family Impact Statement on rules proposed for adoption, repeal, or amendment. All Family Impact Statements will be kept on file in the state board office which has adopted, amended, or repealed rules in accordance with the applicable provisions of the law relating to public records.

1. Will the proposed Rule affect the stability of the family? No.

2. Will the proposed Rule affect the authority and rights of parents regarding the education and supervision of their children? No.

3. Will the proposed Rule affect the functioning of the family? No.

4. Will the proposed Rule affect family earnings and family budget? No.

5. Will the proposed Rule affect the behavior and personal responsibility of children? No.

6. Is the family or a local government able to perform the function as contained in the proposed Rule? Yes.

Poverty Impact Statement

In accordance with section 973 of title 49 of the *Louisiana Revised Statutes*, there is hereby submitted a Poverty Impact Statement on rules proposed for adoption, amendment, or repeal. All Poverty Impact Statements will be in writing and kept on file in the state agency which has adopted, amended, or repealed rules in accordance with the applicable provisions of the law relating to public records. For the purposes of this section, the word “poverty” means living at or below 100 percent of the federal poverty line.

1. Will the proposed Rule affect the household income, assets, and financial authority? No.

2. Will the proposed Rule affect early childhood development and preschool through postsecondary education development? 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 R.S. 49:965.6, the Regulatory Flexibility Act, has been considered. It is estimated that the proposed action is not expected to have a significant adverse impact on small businesses. The agency, consistent with health, safety, environmental, and economic welfare factors has considered and, where possible, utilized regulatory methods in the drafting of the proposed Rule that will accomplish the objectives of applicable statutes while minimizing the adverse impact of the proposed Rule on small businesses.

Provider Impact Statement

The proposed Rule should not have any known or foreseeable impact on providers as defined by HCR 170 of the 2014 Regular Legislative Session. In particular, there should be no known or foreseeable effect on:

1. the staffing level requirements or qualifications required to provide the same level of service;
2. the 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 12 p.m. (noon), May 10, 2019 to Shan N. Davis, Executive Director, Board of Elementary and Secondary Education, P.O. Box 94064, Capitol Station, Baton Rouge, LA 70804-9064. Written comments may be hand-delivered to Shan N. Davis, Executive Director, Board of Elementary and Secondary Education, Suite 5-190, 1201 North Third Street, Baton Rouge, LA 70802 and must be date-stamped by the BESE office on the date received. Public comments must be dated and include the original signature of the person submitting the comments.

Shan N. Davis
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: **Bulletin 745—Louisiana Teaching Authorizations of School Personnel Teaching Authorizations—Issuance, Denial, and Reinstatement**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There are no fiscal implications for state or local governmental units related to the proposed revisions.

In August 2018, the Board of Elementary and Secondary Education (BESE) established Bulletin 745, *Louisiana Teaching Authorizations of School Personnel*, in accordance with Act 634 of the 2018 Regular Legislative Session. The proposed revisions to Bulletin 745 include a records review process to appeal denied and revoked Teaching Authorizations, as well as the provisional issuance/reissuance outlined in Chapter 9 of Bulletin 746.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There are no estimated impacts on revenue collections as a result of the proposed policy revisions.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There are no estimated costs and/or economic benefits to directly affected persons or non-governmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed policy revisions will have no effect on competition and employment.

Beth Scioneaux
Deputy Superintendent
1904#055

Evan Brasseaux
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Board of Elementary and Secondary Education

Bulletin 996—Standards for Approval of Teacher and/or
Educational Leader Preparation Programs
Early Childhood Ancillary Programs
(LAC 28:XLV.101, 303, 305, and 749)

Under the authority granted in R.S. 17:6 and in accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education proposes to amend *Bulletin 996—Standards for Approval of Teacher and/or Educational Leader Preparation Programs*. The proposed amendments will provide for early childhood ancillary programs to mirror the existing program approval process for teacher preparation programs.

Title 28

EDUCATION

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

Chapter 1. Introduction

§101. Purpose

A. Bulletin 996 is intended to guide educator preparation providers in the development and review of new and existing teacher preparation programs, early childhood ancillary certificate programs and/or educational leader preparation programs, to guide the review of teacher and/or educational leader preparation programs in Louisiana, and to inform all interested persons of the Louisiana standards for teacher and educational leader preparation programs and the procedures for program evaluation.

B. - B.5. ...

C. Beginning December 2017, a uniform process for initial and ongoing program approval that applies equally to university and non-university teacher preparation programs, and/or educational leader preparation program providers, will be used. A uniform quality rating system will serve as the basis for renewal decisions.

D. ...

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 28:1730 (August 2002), amended LR 30:2453 (November 2004), LR 35:2326 (November 2009), LR 43:2485 (December 2017), LR 45:

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

§303. Initial Approval [Formerly §203]

A. - D. ...

E. Upon receipt, teacher, early childhood ancillary certificate program, and/or educational leader proposals will undergo a preliminary review by the LDE for completeness. Proposals that are determined to be complete and meet all initial submission requirements will undergo an evaluation process conducted by a panel of reviewers. Proposals that do not meet all initial submission requirements will receive a notice of pending denial. Providers must provide the required material within seven days. If providers do not provide the required material, the proposal will be denied. Proposals may be resubmitted no sooner than one calendar year following the date of initial submission to the LDE.

F. Teacher, early childhood ancillary certificate program, and/or educational leader proposals that meet all initial submission requirements will be evaluated by a panel of reviewers. The panel will include at least one external reviewer. An external reviewer may serve as a preparation program administrator, a preparation program faculty member, or a current or former K-12 educator or leader. The panel will evaluate each proposal using an evaluation tool that was reviewed by representatives from LDE and BOR and will evaluate the proposal to ensure the proposal meets professional, state, and, when applicable, national standards for quality and state certification policy. The panel's evaluation will include an interview with the provider and at least one partner LEA. The panel may interview additional representatives of the provider and LEA partner organizations.

G. The result of the evaluation will be sent by the LDE to the teacher, early childhood ancillary certificate program, and/or educational leader provider. A proposal that fully meets all structural and policy requirements according to the program proposal guidelines will be recommended for BESE approval at the next scheduled BESE meeting. A proposal that is not recommended by the LDE for approval because it does not meet the policy or structural requirements according to the program proposal guidelines may be resubmitted to the LDE for reconsideration no sooner than one calendar year following the date of initial submission to the LDE. Proposals that are not recommended for approval a second time, or are recommended for approval by the LDE but not approved by BESE, may be resubmitted to the LDE for reconsideration no sooner than two calendar years following the date of resubmission to the LDE.

H. BESE will notify the point of contact listed in the proposal submitted by the teacher, early childhood ancillary certificate program, and/or educational leader providers of the decision. Notification will be sent in writing via U.S. mail.

1. ...

2. If BESE does not grant initial approval of the proposed program, the teacher, early childhood ancillary

certificate program, or educational leader provider is eligible to resubmit the proposal. Proposals that are not recommended by BESE for approval may be resubmitted to the LDE for reconsideration no sooner than one calendar year following the date of initial submission to the LDE. Proposals that are not recommended by BESE for approval a second time may be resubmitted to the LDE for reconsideration no sooner than two calendar years following the date of resubmission to the LDE.

I. Teacher, early childhood ancillary certificate program, and/or educational leader proposals for initial approval will be accepted and considered by BESE twice per year. Application timelines will be established and published annually one year in advance of the notice of intent deadline for the first application cycle.

J. Approved teacher, early childhood ancillary certificate program, and/or educational leader preparation providers seeking approval to pilot innovative approaches to training teacher and/or educational leader candidates must request BESE approval to pilot such approaches and recommend certification of candidates upon completion of the program.

K. BESE may rescind program approval if the teacher, early childhood ancillary certificate program, and/or educational leader preparation program has been found to be or has been operating outside of the teacher preparation program requirements outlined in this Chapter and in LAC 28:CXXXI, *Bulletin 746—Louisiana Standards for State Certification of School Personnel*.

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

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

§305. Initial Approval of Early Childhood Ancillary Certificate Programs

A. Initial approval is granted upon approval by BESE and, when applicable, BOR, through submission of a proposal to the LDE.

B. University and non-university providers seeking approval to offer an early childhood ancillary certificate program must demonstrate eligibility by providing, at a minimum:

1. an official declaration of intent in the form of a letter from the head of the institution or organization to the review committee;

2. evidence of regional accreditation status (e.g., Southern Association of Colleges and Schools) for universities only;

3. evidence that the instructors who teach courses or provide direct coaching to teacher or educational leader candidates possess sufficient knowledge, skills, training, and expertise;

4. evidence to show that the tuition- and candidate-incurred costs for the early childhood ancillary certificate program have been established, and have considered any scholarship assistance provided by the LDE; and

5. a description of the provider's system for monitoring and evaluating its candidates, programs, operations, and the performance of its graduates. This description must reflect how the early childhood ancillary

certificate program assesses programs effectiveness, and candidates as well as how the provider provides follow-up data on its graduates.

C. In order to be recommended for BESE approval, early childhood ancillary certificate programs must, at minimum:

1. be designed to develop and ensure candidates' mastery of the early childhood teacher competencies required for certification. The program design must:

- a. center on courses and practice experiences that integrate content, theory, and practice;
- b. expressly teach current Louisiana early learning and development standards and instructional resources; and
- c. require candidates to demonstrate mastery of required competencies through a series of performance assessments;

2. include required applied practice experiences for teacher preparation, including at least two observations using the *Classroom Assessment Scoring System (CLASS®)*; and

3. be jointly developed in partnership with members of the local early childhood care and education community network (LAC 28:CLXVII, *Bulletin 140—Louisiana Early Childhood Care and Education Network*). Evidence of partnership may include, but not be limited to, a formal agreement, such as a memorandum of understanding or memorandum of agreement, that describes shared roles and responsibilities for program design, program implementation, and program evaluation.

D. The LDE will utilize evaluation tools to conduct qualitative assessments of early childhood ancillary certificate proposals to make initial approval recommendations. The evaluation tools must align to the requirements set forth in this Part.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 45:

Chapter 7. Louisiana State Standards for Educator Preparation Programs

Subchapter E. Early Childhood Ancillary Certificate Programs

§749. Minimum Requirements for Early Childhood Ancillary Certificate Programs

A. Early childhood ancillary certificate programs must result in one of the following:

1. a technical diploma or certificate of technical studies in an early childhood-related field from an accredited technical or community college; or
2. training hours and professional portfolio requirements that can be used to complete a child development associate (CDA) credential, either infant/toddler or preschool, awarded by the Council for Professional Recognition.

B. An early childhood ancillary certificate program must be comprised of a minimum of 120 training hours in early childhood education.

C. The program must sequentially develop and assess teacher candidates' mastery of applicable Louisiana teacher preparation competencies in accordance with LAC 28:CXXXI, *Bulletin 746*, through a combination of coursework, assessments, and related practice experiences.

D. Programs must include the following practice experiences, which directly align with and sequentially develop the competencies identified in LAC 28:CXXXI, *Bulletin 746*:

1. actual practice experiences must be provided in classroom settings; and

2. a minimum of two observations using the *Classroom Assessment Scoring System (CLASS®)* must be completed for each candidate.

E. The preparation provider must assess and document evidence of candidates' teaching competency for all candidates.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 45:

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 noon, May 10, 2019, to Shan N. Davis, Executive Director, Board of Elementary and Secondary Education, Box 94064, Capitol Station, Baton Rouge, LA 70804-9064. Written comments may also be hand delivered to Shan Davis, Executive Director, Board of Elementary and Secondary Education, Suite 5-190, 1201 North Third Street, Baton Rouge, LA 70802 and must be date stamped by the BESE office on the date received. Public comments must be dated and include the original signature of the person submitting the comments.

Shan N. Davis
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Bulletin 996—Standards for Approval of Teacher and/or Educational Leader Preparation Programs Early Childhood Ancillary Programs

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There may be costs for public Institutions of Higher Education to develop and offer early childhood ancillary certificate programs. These costs will vary across institution depending upon the program offerings, available resources of the institution, and the number of students enrolled in such programs, and are indeterminable at this time.

In January 2015, BESE established policy that required early child care teachers in publicly funded programs to have an Early Childhood Ancillary Certificate by July 2019. The policy included the requirement that beginning in July 2018, child care teachers complete training for the Early Childhood Ancillary Certificate at BESE-approved preparation programs. The proposed revisions create a program approval process for Early Childhood Ancillary programs which mirror the existing program approval process for teacher preparation programs. The proposed program approval process for Early Childhood Ancillary programs recommends that all program proposals be reviewed by an expert review team and that BESE consider approval of these programs biannually. Programs must include actual practice experiences in classroom settings, and a minimum of two observations using the Classroom Assessment Scoring System (CLASS).

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

Institutions offering early childhood ancillary certificate programs will realize an increase in tuition and fee revenues from students enrolling in the program. Tuition and fee rates will vary by institution and are indeterminable at this time.

II. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Non-university providers seeking approval to offer an early childhood ancillary certificate program will experience similar costs to develop and offer such programming as well as revenue impacts from student tuition and fee assessments.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed policy revisions will have no effect on competition and employment.

Beth Scioneaux
Deputy Superintendent
1904#053

Evan Brasseaux
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Board of Elementary and Secondary Education

Bulletin 996—Standards for Approval of Teacher and/or Educational Leader Preparation Programs Quality Rating Calculation (LAC 28:XLV.407)

Under the authority granted in R.S. 17:6 and in accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education proposes to amend *Bulletin 996—Standards for Approval of Teacher and/or Educational Leader Preparation Programs*. The proposed amendments will incorporate the following domains into the teacher preparation quality rating system:

1. preparation program experience—measured by on-site reviews of each teacher preparation provider;
2. meeting educator workforce needs—measured by the percentage of program completers in high-need certification areas and/or the percentage of residents placed in high-need schools; and
3. teacher quality—measured by the program value-added results of the completers for up to, but not more than, three years following program completion.

Title 28

EDUCATION

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

Chapter 4. Teacher Preparation Program Accountability and Renewal of Teacher Preparation Program Approval

§407. Quality Rating Calculation

A. - G. ...

H. The teacher quality score will be determined by the calculation of an index score, to be calculated as follows.

1. The number of program completers in each value-added level below will be multiplied by the corresponding index points displayed in the following table.

Completer Value-Added Result	Index Points
Ineffective	0
Effective: Emerging	50
Effective: Proficient	100
Highly Effective	150

2. The totals for each value-added category in Paragraph 1 of this Subsection will be added together.

3. The sum of the totals for each value-added category will be divided by the total number of program completers, yielding an index score between 0 and 150.

4. Using the index score, a teacher quality score between one and four will be assigned based on the ranges listed in the following table.

Teacher Quality Score	Score Range
Level 1	<65
Level 2	65.0-74.9
Level 3	75.0-84.9
Level 4	≥85

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 43:2489 (December 2017), amended LR 45:

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 noon, May 10, 2019, to Shan N. Davis, Executive Director, Board of Elementary and Secondary Education, Box 94064, Capitol Station, Baton Rouge, LA 70804-9064. Written comments may also be hand delivered to Shan Davis, Executive Director, Board of Elementary and Secondary Education, Suite 5-190, 1201 North Third Street, Baton Rouge, LA 70802 and must be date stamped by the BESE office on the date received. Public comments must be dated and include the original signature of the person submitting the comments.

Shan N. Davis
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Bulletin 996—Standards for Approval of Teacher and/or Educational Leader Preparation Programs—Quality Rating Calculation

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There may be impacts to Public Institutions of Higher Education associated with the proposed changes to the Quality Rating System of the teacher preparation program accountability system. Institutions may incur costs associated with improvement plans and may experience negative enrollment impacts based on the final results of the rating system and associated interventions outlined in rule. However, any such impacts are indeterminable at this time.

The quality rating for preparation providers is calculated by weighting three domains: preparation program experience (50%); meeting educator workforce needs (25%); and teacher quality (25%). The proposed revisions provide the calculation methodology for the teacher quality score. For continued state

approval, university providers must maintain effective ratings on the state teacher preparation quality rating system (Level 1, 2, 3, or 4). Renewal decisions are made every two years with providers at a level 3 or above moving to a four-year accountability cycle. Teacher preparation programs that do not maintain a quality rating of 3 or above shall undergo a corrective action period during which the provider must develop an improvement plan including specific goals, timelines, and measures of success. The Board of Elementary and Secondary Education (BESE) shall review data in the plan to inform required interventions which include, but are not limited to one or more of the following: require enactment of improvement recommendations; designate programs as low performing; limit or discontinue enrollment for one or more pathways or programs; discontinue the provider's ability to recommend teacher candidates for certification in one or more pathways or programs. The Louisiana Department of Education (LDE) shall make publicly available a performance profile for each approved preparation provider annually, beginning winter 2019-2020. The performance profile shall include a quality rating, including the scores and measures contributing to the rating as well as other informational metrics required by BESE Bulletin 996.

Per simulations based on the value-added results for the prior year, seven (58%) providers of undergraduate pathways scored a quality rating of Level 1: Ineffective, or Level 2: Needs Improvement and five (36%) scored a Level 1 or 2 in the post-baccalaureate pathway. There will be no consequences for providers as a result of the performance profiles for the 2019-2020 years. The 2020-2021 academic year shall be the first year of the initial two-year cycle.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There may be a reduction in enrollment and associated tuition revenues for providers to the extent programs are designated as low performing and at risk of low performance per the federal Higher Education Act; enrollment is limited or discontinued for one or more pathways or programs; or the provider's ability to recommend teacher candidates for certification in one or more pathways or programs is discontinued.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Non-university providers who participate in teacher preparation programs are subject to the same accountability and interventions as public universities and may experience similar impacts.

Individuals seeking to enroll in teacher preparation programs may be impacted to the extent providers are limited in their ability to accept new students, thereby reducing educational options. Alternatively, poor performance profiles could impact enrollment decisions of those individuals.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is an indeterminable impact on competition and employment of faculty at impacted institutions which fail to maintain ratings of effective or above and are subject to corrective actions outlined in rule.

Beth Scioneaux
Deputy Superintendent
1904#052

Evan Brasseaux
Staff Director
Legislative Fiscal Officer

NOTICE OF INTENT

**Department of Health
Board of Medical Examiners**

Physician Licensure and Certification;
Fellowship Training Permit
(LAC 46:XLV.405 and 411)

Notice is hereby given that in accordance with the Louisiana 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 Louisiana Medical Practice Act, R.S. 37:1270, R.S. 37:1275, R.S. 37:1277, R.S. 37:1281 and R.S. 37:1285, the Board intends to amend its Rules governing short-term permits to provide for a permit that would accommodate fellowship training that is not accredited by the American Council on Graduate Medical Education (ACGME) of the American Medical Association, the American Osteopathic Association (AOA) or the Commission on Dental Accreditation (CODA) of the American Dental Association. The proposed amendments are set forth below.

**Title 46
PROFESSIONAL AND OCCUPATIONAL
STANDARDS**

Part XLV. Medical Professions

Subpart 2. Licensure and Certification

Chapter 3. Physicians

Subchapter H. Restricted Licensure, Permits

§405. Short-Term Residency Permit; Fellowship Training Permit

A. - D. ...

E. Fellowship Training Permit; Qualifications. The board may, in its discretion, issue a temporary permit for the purpose of participating in unaccredited postgraduate fellowship training, at a minimum level of postgraduate year four (PGY-4), that is conducted by a Louisiana medical school or major teaching hospital, as defined herein, provided such school or major teaching hospital sponsors a fully accredited ACGME residency training program in the same specialty in which the fellowship training is offered. To qualify for such a permit an applicant:

1. shall:

a. have completed a residency training program accredited by the ACGME, AOA or the Commission on Dental Accreditation (CODA) of the American Dental Association in the same specialty as the fellowship; and

b. possess all of the qualifications for licensing prescribed by §311A.1-6 of these rules;

2. present, or cause to be presented, to the board:

a. a completed application in a manner specified by the board, together with the fees prescribed by Chapter 1 of these rules;

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

c. a letter from the program director under whom he or she will be serving in the fellowship, describing the

capacity in which the applicant will be serving and the inclusive dates of such service.

3. Restrictions, Limitations. The holder of a permit issued under this Section shall not engage in the practice of medicine in any respect in the state of Louisiana, or receive medical educational or training, other than within the fellowship training program for which he or she is approved by the board.

4. Term. A permit issued under this Section shall expire, and thereby become null and void and to no effect on the date specified by the permit or twelve months from the date of issuance, whichever is the shorter period. Such permit shall also expire on any date that the permittee's appointment to the designated fellowship training is terminated.

5. Renewal. A fellowship training permit which has expired may, at the board's discretion, be renewed or reissued for not more than one successive twelve month period commencing without interruption immediately following the initial expiring permit, provided all requirements prerequisite to initial permit issuance have been met to the board's satisfaction.

6. Revocation. A fellowship training permit may be revoked by the board:

- a. for any of the causes specified by R.S. 37:1285A;
- b. upon a finding by the board that the permittee has failed to maintain, or did not possess at the time of application, any of the qualifications prerequisite to eligibility for a permit as prescribed by this Subsection; or
- c. upon a finding by the board that the permittee has exceeded the scope of authority accorded by the permit or otherwise violated any of the terms, conditions, restrictions, or limitations prescribed by this Section.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 10:913 (November 1984), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 16:521 (June 1990), LR 27:845 (June 2001), LR 33:1344 (July 2007), amended by the Department of Health, Board of Medical Examiners, LR

§411. Graduate Education Temporary Permit/Short-Term IMG Training Permit; Fellowship Training Permit

A. - K.2. . . .

L. Fellowship Training Permit; Qualifications. The board may, in its discretion, issue a temporary permit for the purpose of participating in unaccredited postgraduate fellowship training at a minimum level of postgraduate year four (PGY-4), that is conducted by a Louisiana medical school or major teaching hospital, as defined herein, provided such school or major teaching hospital sponsors a fully accredited ACGME residency training program in the same specialty in which the fellowship is offered. To qualify for such a permit an applicant:

1. shall:
 - a. have completed a residency training program accredited by the ACGME, AOA or the Commission on Dental Accreditation (CODA) of the American Dental Association in the same specialty as the fellowship; and
 - b. possess all of the qualifications for licensing prescribed by §323 of these rules;

2. present, or cause to be presented, to the board:

- a. a completed application in a manner specified by the board, together with the fees prescribed by Chapter 1 of these rules;
- b. satisfactory documentation that the applicant possesses the qualifications required by this Section; and
- c. a letter from the program director under whom he or she will be serving in the fellowship, describing the capacity in which the applicant will be serving and the inclusive dates of such service.

3. Restrictions, Limitations. The holder of a permit issued under this Section shall not engage in the practice of medicine in any respect in the state of Louisiana, or receive medical education or training, other than within the fellowship training program for which he or she is approved by the board.

4. Term. A permit issued under this Section shall expire, and thereby become null and void and to no effect on the date specified by the permit or twelve months from the date of issuance, whichever is the shorter period. Such permit shall also expire on any date that the permittee's appointment to the designated fellowship training program is terminated.

5. Renewal. A fellowship training permit which has expired may, at the board's discretion, be renewed or reissued for not more than one successive twelve month period commencing without interruption immediately following the initial expiring permit, provided all requirements prerequisite to initial permit issuance have been met to the board's satisfaction.

6. Revocation. A fellowship training permit may be revoked by the board:

- a. for any of the causes specified by R.S. 37:1285A;
- b. upon a finding by the board that the permittee has failed to maintain, or did not possess at the time of application, any of the qualifications prerequisite to eligibility for a permit as prescribed by this Subsection; or
- c. upon a finding by the board that the permittee has exceeded the scope of authority accorded by the permit or otherwise violated any of the terms, conditions, restrictions, or limitations prescribed by this Section.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 21:467 (May 1995), amended LR 27:846 (June 2001), LR 35:465 (March 2009), amended by the Department of Health, Board of Medical Examiners, LR 45:

Family Impact Statement

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of the proposed amendments on the family has been considered. It is not anticipated that the proposed amendments will have any 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 impact of the proposed amendments on those that may be living at or below one hundred percent of the federal poverty line has been considered. It is not anticipated that the proposed amendments will have any impact on child, individual or

family poverty in relation to individual or community asset development, as described in R.S. 49:973.

Provider Impact Statement

In compliance with HCR 170 of the 2014 Regular Session of the Louisiana Legislature, the impact of the proposed amendments on organizations that provide services for individuals with developmental disabilities has been considered. It is not anticipated that the proposed amendments will have any impact on the staffing, costs or overall ability of such organizations to provide the same level of services, as described in HCR 170.

Small Business Analysis

It is not anticipated that the proposed amendments will have any adverse impact on small businesses as defined in the Regulatory Flexibility Act, R.S. 49:965.2 et. seq.

Public Comments

Interested persons may submit written data, views, arguments, information or comments on the proposed amendments to Rita Arceneaux, Confidential Executive Assistant, Louisiana State Board of Medical Examiners, 630 Camp Street, New Orleans, Louisiana, 70130, (504) 568-6820, Ex. 242. She is responsible for responding to inquiries. Written comments will be accepted until 4 p.m., May 21, 2019.

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. If a public hearing is requested to provide data, views, arguments, information or comments orally in accordance with the Louisiana Administrative Procedure Act, the hearing will be held on Thursday, May 30, 2019 at 11 a.m., at the office of the Louisiana State Board of Medical Examiners, 630 Camp Street, New Orleans, Louisiana 70130. Any person wishing to attend should call to confirm that a hearing is being held.

Vincent A. Culotta, Jr., M.D.
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Physician Licensure and Certification; Fellowship Training Permit

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed rule changes will result in a one-time publication expense totaling \$865 in FY 19-20 for the LA State Board of Medical Examiners (LSBME) to publish the rule changes in the Louisiana Register. Otherwise, the proposed rule changes are not anticipated to result in any additional costs for state or local governmental units.

The proposed rule changes amend the LSBME's administrative rules to provide a fellowship (e.g., post-residency) training permit for training that is not accredited by the American Council on Graduate Medical Education (ACGME) of the American Medical Association, the American Osteopathic Association (AOA) or the Commission on Dental Accreditation (CODA) of the American Dental Association.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rule changes will increase SGR collections for the LSBME by an indeterminable amount beginning in FY 19 and in subsequent fiscal years. The fee for a temporary

permit under the board's current rules is \$100 for initial issuance and \$100 for a one-time, 12-month renewal. The board does not anticipate more than 15-20 total applicants per year for the proposed permit, which will generate an estimated \$1,500 - \$2,000 (15-20 permits * \$100 per permit) annually. However, revenues associated with these permits are indeterminable and dependent upon the number of applicants annually. Furthermore, to the extent permits are renewed, the LSBME may realize an additional \$100 per permit renewal.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The proposed rule changes benefit physicians by outlining requirements and allowing for training that is not accredited by the American Council on Graduate Medical Education (ACGME) of the American Medical Association, the American Osteopathic Association (AOA) or the Commission on Dental Accreditation (CODA) of the American Dental Association. The proposed permit is anticipated to be beneficial to physicians who may receive such training, and the medical institutions that offer such programs, by facilitating medical education, training, and retraining of fellows in emerging medical fields for which there is no current pathway to ACGME, AOA or CODA accreditation. It is also anticipated that the additional training received by such physicians will improve the quality of healthcare delivery in Louisiana.

In order to be eligible for a permit the applicant must have completed an accredited residency training program in the same specialty as the fellowship, possess all qualifications for licensure, submit an application to the board and pay the applicable \$100 permit fee. The permit holder may only practice medicine or receive medical education or training within the training program. The duration of the permit is for 12 months, may be renewed one time with an accompanying fee of \$100, and is subject to revocation for violation of the Medical Practice Act or the LSBME's rules.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no anticipated effect on competition or employment associated with the proposed rule changes.

Vincent A. Culotta, Jr., M.D.
Executive Director
1904#060

Evan Brasseaux
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Health Board of Medical Examiners

Physician Practice; Marijuana for Therapeutic Use by Patients Suffering From a Debilitating Medical Condition (LAC 46:XLV Chapter 77)

Notice is hereby given that in accordance with the Louisiana 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 Louisiana Medical Practice Act, R.S. 37:1270, and Louisiana law governing therapeutic marijuana, R.S. 40:1046, the Board intends to amend its rules governing physicians who diagnose their patients with a debilitating medical condition for which therapeutic marijuana may be recommended, LAC 46:XLV Chapter 77. The proposed amendments are needed to conform the Board's rules to Acts 496 and 708 of the 2018 Regular Session of the Louisiana Legislature. Among other items, the proposed changes: (i) add various conditions

to the definition of a *debilitating medical condition(s)* (DMC or DMCs) for which therapeutic marijuana (TM) may be recommended (*glaucoma, Parkinson’s disease, severe muscle spasm, intractable pain, post-traumatic stress disorder, autism spectrum disorder*); (ii) add definitions for “intractable pain,” “consult or consultant” and “pediatric subspecialists,” to accommodate the revised list of DMCs; (iii) eliminate the 100 patient limit on the number of patients for whom a physician registered with the Board may recommend TM; (iv) remove the requirement that the physician re-examine the patient at intervals not to exceed 90 days, leaving the frequency of follow up exams to the physician’s judgment. The proposed changes also: (v) clarify that the existing prohibition against ownership or investment interest in a TM pharmacy or producer applies only to physicians registered to recommend TM; (vi) clarify that physicians recommending TM must also comply with the rules on treatment of non-cancer related chronic or intractable pain if TM is utilized for this condition; (vii) amend the definition of “Bona-Fide Physician-Patient Relationship,” to eliminate unintended consequences (*Definition of Bona-Fide Physician-Patient Relationship*); and (viii) clarify the mode of transmission of a recommendation to a TM pharmacy. The proposed amendments which amend §§7705A (definitions), 7707A.5, 7717A.4.d, 7717A.6, 7721C and 7729C and delete 7707A.2 and 7709B, are set forth below.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part XLV. Medical Professions

Subpart 3. Practice

Chapter 77. Marijuana for Therapeutic Use by Patients Suffering from a Debilitating Condition

Subchapter A. General Provisions

§7705. Definitions

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

Bona-Fide Physician-Patient Relationship—a relationship in which a physician:

a. has conducted at least one in-person examination at a physical practice location, or another location identified in his or her registration under this Chapter, in this state;

b. - c. ...

Consult or Consultation—as used in this Chapter, means advice or opinions provided to a physician registered with the board to recommend therapeutic marijuana, by a pediatric subspecialist regarding a patient’s diagnosis of ASD and treatment with therapeutic marijuana. The consultation may be obtained in person or by telephone, telemedicine or electronic mail, provided it affords for medical/health information privacy and security. The request for and report of the consultant must be documented in the patient record of the requesting physician, who shall remain personally responsible to the patient for the primary diagnosis and any treatment provided. If the consultant’s advice or opinions are not accepted by the requesting physician, the medical record should document the consultation and the reason(s) why it was not accepted.

Debilitating Medical Condition (also referred to in this Chapter as a *Qualifying Medical Condition*)—means any of the following:

- a. cancer;
- b. glaucoma;
- c. Parkinson’s disease;
- d. positive status for human immunodeficiency virus;
- e. acquired immune deficiency syndrome;
- f. cachexia or wasting syndrome;
- g. seizure disorders;
- h. epilepsy;
- i. spasticity;
- j. severe muscle spasms;
- k. intractable pain;
- l. Crohn’s disease;
- m. muscular dystrophy;
- n. multiple sclerosis;
- o. post-traumatic stress disorder;
- p. any of the following conditions associated with autism spectrum disorder (ASD); provided, however, that prior to recommending therapeutic marijuana for any condition associated with ASD to a patient under eighteen years of age, the physician shall consult with a pediatric subspecialist:

- i. repetitive or self-stimulatory behavior of such severity that the physical health of the person with autism is jeopardized;

- ii. avoidance of others or inability to communicate of such severity that the physical health of the person with autism is jeopardized;

- iii. self-injuring behavior;

- iv. physically aggressive or destructive behavior;

- q. and such other diseases or conditions that may subsequently be identified as a debilitating medical condition by amendment of R.S. 40:1046 or other state law.

Intractable Pain—for purposes of this Chapter, means a pain state in which the course of the pain cannot be removed or otherwise treated with the consent of the patient and which, in the generally accepted course of medical practice, no relief or cure of the cause of the pain is possible, or none has been found after reasonable efforts. It is pain so chronic and severe as to otherwise warrant an opiate prescription.

Pediatric Subspecialist—an individual licensed to practice medicine in any state in the United States who provides care to patients with ASD.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1261-1292, 1270, and 40:1046.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 41:2632 (December 2015), amended by the Department of Health, Board of Medical Examiners, LR 43:319 (February 2017), LR 45:

Subchapter B. Prohibitions and Exceptions

§7707. Prohibitions

A. No physician shall:

- 1. ...
- 2. Repealed.
- 3. - 4. ...

- 5. if registered with the board under this Chapter, have an ownership or investment interest established through

debt, equity, or other means, whether held directly or indirectly by a physician or a member of a physician's immediate family, nor any contract or other arrangement to provide goods or services, in or with a licensed therapeutic marijuana pharmacy or a producer licensed by the Louisiana Department of Agriculture and Forestry to produce marijuana.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1261-1292, 1270, and 40:1046.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 41:2632 (December 2015), amended by the Department of Health, Board of Medical Examiners, LR 45:

§7709. Exceptions

A. This Chapter is subject to the following exceptions.

1. - 2.b....

B. Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1261-1292, 1270, and 40:1046.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 41:2632 (December 2015), amended by the Department of Health, Board of Medical Examiners, LR 43:319 (February 2017), LR 45:

Subchapter D. Marijuana for Therapeutic Purposes, Limitations, Access to Records

§7717. Use of Marijuana for Therapeutic Purposes, Limitations

A. Required Prior Conditions. Nothing in this Chapter requires that a physician issue a written request or recommendation for marijuana. However, if a physician determines it medically appropriate to do so to treat or alleviate symptoms of a patient's qualifying medical condition the physician shall comply with the following rules.

1. - 3. ...

4. Treatment Plan. An individualized treatment plan shall be formulated and documented in the patient's medical record which includes medical justification for the use of marijuana. In addition, the plan shall include documentation:

a. - c. ...

d. of compliance with the board's rules on chronic or intractable pain, set forth in 6915-6923 of this Part, if therapeutic marijuana is utilized for the treatment of non-cancer-related chronic or intractable pain.

5. ...

6. Continued Use of Marijuana. The physician shall monitor the patient's progress at such intervals as the physician determines appropriate to assess the benefits of treatment, assure the therapeutic use of marijuana remains indicated, and evaluate the patient's progress toward treatment objectives. During each visit, attention shall be given to the possibility that marijuana use is not masking an acute or treatable progressive condition or that such use will lead to a worsening of the patient's condition. Indications of substance abuse or diversion should also be evaluated.

A.7. - B.3. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1261-1292, 1270, and 40:1046.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 41:2633 (December 2015), amended by the Department of Health, Board of Medical Examiners, LR 43:319 (February 2017), LR 45:

§7721. Form of Written Request or Recommendation

A. - B. ...

C. Manner of Transmission. A written request or recommendation for therapeutic marijuana shall be transmitted by the physician or physician's designee to a licensed therapeutic marijuana pharmacy by facsimile or in another electronic manner that provides for medical/health information privacy and security and is in compliance with rules promulgated by the Louisiana Board of Pharmacy. The pharmacy shall be selected by the patient from a list of licensed therapeutic marijuana pharmacies.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1261-1292, 1270, and 40:1046.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 41:2634 (December 2015), amended by the Department of Health, Board of Medical Examiners LR 43:320 (February 2017), LR 45:

§7729. Appendix—Form for Recommendation for Therapeutic Marijuana

**—THIS IS NOT A PRESCRIPTION—
PHYSICIAN RECOMMENDATION FORM**

Section A. - B. ...

Section C. Patient's Debilitating Medical Condition(s) (Required)

This patient has been diagnosed with the following debilitating medical condition: (A minimum of one condition must be checked)	
<input type="checkbox"/> Acquired Immune Deficiency Syndrome <input type="checkbox"/> Cachexia or Wasting Syndrome <input type="checkbox"/> Cancer <input type="checkbox"/> Crohn's Disease <input type="checkbox"/> Epilepsy <input type="checkbox"/> Multiple Sclerosis <input type="checkbox"/> Muscular Dystrophy <input type="checkbox"/> Positive Status for Human Immunodeficiency Virus <input type="checkbox"/> Spasticity <input type="checkbox"/> Seizure Disorders <input type="checkbox"/> Glaucoma <input type="checkbox"/> Parkinson's Disease	<input type="checkbox"/> Severe Muscle Spasms <input type="checkbox"/> Intractable Pain <input type="checkbox"/> Post-Traumatic Stress Disorder <input type="checkbox"/> Any of the following conditions associated with autism spectrum disorder: <input type="checkbox"/> (i) repetitive or self-stimulatory behavior of such severity that the health of the person with autism is jeopardized; <input type="checkbox"/> (ii) avoidance of others or inability to communicate of such severity that the physical health of the person with autism is jeopardized; <input type="checkbox"/> (iii) self-injuring behavior; <input type="checkbox"/> (iv) physically aggressive or destructive behavior.

Section D.-E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1261-1292, and R.S. 40:1046.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 41:2635 (December 2015), amended by the Department of Health, Board of Medical Examiners, LR 43:320 (February 2017), LR 45:

Family Impact Statement

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of the proposed amendments on the family has been considered. It is not anticipated that the proposed amendments will have any 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 impact of the proposed amendments on those that may be living at or below one hundred percent of the federal poverty line has been

considered. It is not anticipated that the proposed amendments will have any impact on child, individual or family poverty in relation to individual or community asset development, as described in R.S. 49:973.

Provider Impact Statement

In compliance with HCR 170 of the 2014 Regular Session of the Louisiana Legislature, the impact of the proposed amendments on organizations that provide services for individuals with developmental disabilities has been considered. It is not anticipated that the proposed amendments will have any impact on the staffing, costs or overall ability of such organizations to provide the same level of services, as described in HCR 170.

Small Business Statement

It is not anticipated that the proposed rule will have any adverse impact on small businesses as defined in the Regulatory Flexibility Act, R.S. 49:965.2 et seq.

Public Comments

Interested persons may submit written data, views, arguments, information or comments on the proposed amendments to Rita Arceneaux, Confidential Executive Assistant, Louisiana State Board of Medical Examiners, 630 Camp Street, New Orleans, Louisiana, 70130, (504) 568-6820, Ex. 242. She is responsible for responding to inquiries. Written comments will be accepted until 4 p.m., May 21, 2019.

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. If a public hearing is requested to provide data, views, arguments, information or comments orally in accordance with the Louisiana Administrative Procedure Act, the hearing will be held on Thursday, May 30, 2019 at 10 a.m., at the office of the Louisiana State Board of Medical Examiners, 630 Camp Street, New Orleans, LA 70130. Any person wishing to attend should call to confirm that a hearing is being held.

Vincent A. Culotta, Jr., M.D.
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Physician Practice; Marijuana for Therapeutic Use by Patients Suffering From a Debilitating Medical Condition

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed rule changes will result in a one-time publication expense totaling \$1,502 in FY 20 for the LA State Board of Medical Examiners (LSBME).

The proposed rule changes amend rules governing the practice of physicians registered to recommend therapeutic marijuana to patients. The proposed rule changes conform with Acts 496 and 708 of the 2018 Regular Session, which added various conditions to the definition of a debilitating medical condition(s) (DMC or DMCs) for which therapeutic marijuana (TM) may be recommended (glaucoma, Parkinson's disease, severe muscle spasm, intractable pain, post-traumatic stress disorder, autism spectrum disorder). The proposed rule changes also add definitions for "intractable pain," "consult or consultant" and "pediatric subspecialists," to accommodate the revised list of DMCs. Furthermore, the proposed rule changes

eliminate the 100-patient limitation on the number of patients for whom a physician registered with the board may recommend TM, as well as remove the requirement that the physician re-examine the patient at intervals not to exceed 90 days, leaving the frequency of follow up exams to the physician's judgment. The proposed changes also clarify that the existing prohibition against ownership or investment interest in a TM pharmacy or producer applies only to physicians registered to recommend TM; clarify that physicians recommending TM must also comply with the rules on treatment of non-cancer related chronic or intractable pain if TM is utilized for this condition; amend the definition of "Bona-Fide Physician-Patient Relationship;" and clarify the transmission mode for a recommendation to a TM pharmacy.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rule changes will not affect revenue collections for state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The proposed rule changes expand the list of DMCs and provide associated definitions consistent with Acts 496 and 708 of the 2018 Regular Session. These changes will expand this form of therapy to patients diagnosed with additional qualifying medical conditions.

The proposed changes (expansion of the list of DMCs, elimination of patient limit and timing of return visits, clarification of the rule on ownership or investment interest, application of the chronic pain rules to the treatment of chronic pain with this form of therapy, expansion of the definition of "bona-fide physician-patient relationship to permit exams at locations other than a physician's physical practice location and clarifying the mode of transmission of TM recommendations) are also anticipated to provide greater patient access and physician capacity for patients with a TM qualifying DMC and better insure regulatory compliance. It is unknown whether or to what extent the proposed changes will affect the workload and/or income of physicians who may diagnose their patients with a DMC for which TM may be recommended.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The increased list of DMCs, removal of the patient limit and timing of return visits may provide greater patient access and physician capacity for patients with a TM qualifying DMC. Clarification of various rules may better insure regulatory compliance. Otherwise, it is not anticipated that the proposed changes will have any impact on competition or employment.

Vincent A. Culotta, Jr. MD
Executive Director
1904#061

Evan Brasseaux
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Health and Hospitals Board of Medical Examiners

Physician Practice; Telemedicine (LAC 46:XLV.7505)

Notice is hereby given that in accordance with the Louisiana 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 Louisiana Medical Practice Act, R.S. 37:1270, the board intends to amend its rules governing telemedicine to delete the words "in this state" from 7505C. for consistency with the law and so that, as applied, the Rule would not inadvertently prevent

physicians from prescribing medication or other health care services to their patients who may be vacationing or temporarily outside of Louisiana, to the extent that such activities or practices are lawful and permitted by the medical licensing authorities in other jurisdictions. The proposed amendment is set forth below.

Title 46
PROFESSIONAL AND OCCUPATIONAL
STANDARDS

Part XLV. Medical Professions

Subpart 3. Practice

Chapter 75. Telemedicine

Subchapter A. General Provisions

§7505. Patient Relationship; Standard of Care;

Location of Participants

A. - B. ...

C. Location of Participants. A physician using telemedicine may be at any location at the time the services are provided. A patient receiving medical services by telemedicine may be in any location at the time that the services are received.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1262, 1270, 1271, 1275 and 1276.1.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 35:1533 (August 2009), amended 41:2145 (October 2015), amended by the Department of Health, Board of Medical Examiners, LR 43:317 (February 2017), LR 45:

Family Impact Statement

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of the proposed amendment on the family has been considered. It is not anticipated that the proposed amendment will have any impact on family, formation, stability or autonomy, as described in R.S. 49:972.

Poverty Statement

In compliance with Act 854 of the 2012 Regular Session of the Louisiana Legislature, the impact of the proposed amendment on those that may be living at or below one hundred percent of the federal poverty line has been considered. It is not anticipated that the proposed amendment will have any impact on child, individual or family poverty in relation to individual or community asset development, as described in R.S. 49:973.

Provider Statement

In compliance with HCR 170 of the 2014 Regular Session of the Louisiana Legislature, the impact of the proposed amendment on organizations that provide services for individuals with developmental disabilities has been considered. It is not anticipated that the proposed amendment will have any impact on the staffing, costs or overall ability of such organizations to provide the same level of services, as described in HCR 170.

Small Business Statement

It is not anticipated that the proposed amendment will have any adverse impact on small businesses as defined in the Regulatory Flexibility Act, R.S. 49:965.2 et. seq.

Public Comments

Interested persons may submit written data, views, arguments, information or comments on the proposed

amendment to Rita Arceneaux, Confidential Executive Assistant, Louisiana State Board of Medical Examiners, 630 Camp Street, New Orleans, Louisiana, 70130, (504) 568-6820, Ex. 242. She is responsible for responding to inquiries. Written comments will be accepted until 4 p.m., May 21, 2019.

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. If a public hearing is requested to provide data, views, arguments, information or comments orally in accordance with the Louisiana Administrative Procedure Act, the hearing will be held on Thursday, May 30, 2019 at 11:30 a.m., at the office of the Louisiana State Board of Medical Examiners, 630 Camp Street, New Orleans, Louisiana 70130. Any person wishing to attend should call to confirm that a hearing is being held.

Vincent A. Culotta, Jr., M.D.,
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES

RULE TITLE: Physician Practice; Telemedicine

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed rule change will result in a one-time publication expense estimated at \$425 in FY 19-20 for the LA State Board of Medical Examiners (LSBME). Otherwise, the proposed change will not result in any additional costs for state or local governmental units.

The proposed change amends the rules governing the practice of physicians located in this state who utilize telemedicine in the care of their patients. Specifically, the proposed amendment deletes the words "in this state" regarding where a patient may receive telemedicine services for consistency with LA R.S. 37:1271(4)(a). Therefore, the administrative rules would not inadvertently prevent physicians from prescribing medication or other health care services to their patients who may be vacationing or temporarily outside of Louisiana, to the extent that such activities or practices are lawful and permitted by the medical licensing authorities in other jurisdictions.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rule changes will not affect revenue collections for state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The proposed rule change may benefit Louisiana citizens while vacationing or temporarily outside of Louisiana who may continue to receive care from their Louisiana licensed physicians. The change may also benefit Louisiana licensed physicians by allowing them to provide continuity of care to their Louisiana patients who may be temporarily out of state. Given that Louisiana medical licensure cannot authorize a physician to practice medicine beyond the borders of this state, Louisiana physicians seeking to accommodate their patients in this manner will need to verify their lawful authority to do so with the medical licensing authorities of the state in which their patient is located. The LSBME cannot estimate this cost or addition to a physician's workload.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT
(Summary)

The proposed rule change will not affect competition or employment.

Vincent A Culotta, Jr.
Executive Director
1904#059

Evan Brasseaux
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Health
Board of Nursing**

**Application Fee for Compact Licensure
(LAC 46:XLVII.3341)**

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. 37:917-918, that the Louisiana State Board of Nursing (LSBN) is implementing a law that became final during the 2018 Regular Legislative Session. Act 577 was passed which allowed Louisiana to participate in the Nurse Licensure Compact (NLC) for registered nurses and licensed practical nurses. As a result, the Louisiana State Board of Nursing (LSBN) will incur a slight increase in administrative costs and a relative increase in salary expenditures based on the number of registered nurse applications submitted.

In order to be party to the Multi-State Nurse Licensure Compact, an annual administrative fee of \$6,000 will be paid to the compact's Interstate Commission for which LSBN will be responsible for \$3000 and the Louisiana State Board of Practical Nurse Examiners (LSBPNE) will be responsible for \$3000. The LSBN anticipates having to attend quarterly Commission meetings costing approximately \$4,000 annually. The LSBN anticipates funding the compact membership fee and travel expenses utilizing existing resources and budget authority.

As identified in Article III of La. R.S. 37:1018, staff must review applications to ensure that the applicant meets the criteria for compact licensure. By requiring a fee, the board will be able to offset administrative costs associated with reviewing applications and converting current licensees from a single-state license to a multi-state license.

Title 46

**PROFESSIONAL AND OCCUPATIONAL
STANDARDS**

**Part XLVII. Nurses: Practical Nurses and Registered
Nurses**

Subpart 2. Registered Nurses

Chapter 33. General

**Subchapter C. Registration and Registered Nurse
Licensure**

§3341 Application Fee for Compact Licensure

A. Notwithstanding any provisions of this Chapter, the board shall collect in advance fees for licensure and administrative services as follows;

1. Licensure Fees:
 - a. RN examination application—\$100;
 - b. RN endorsement application—\$100;
 - c. Enrollment application—\$50;
 - d. RN renewal application—\$100;

- e. RN late fee - \$50 (plus renewal fee);
- f. Retired license application (one-time fee)—\$100;
- g. RN reinstatement application—\$100;
- h. Initial APRN licensure application—\$100;
- i. RN/APRN endorsement temporary permit fee—\$100;
- j. APRN endorsement application—\$100;
- k. APRN renewal application—\$100;
- l. APRN late fee - \$100 (plus renewal fee);
- m. APRN reinstatement application—\$100;
- n. APRN prescriptive authority application—\$100
- o. APRN prescriptive authority site change fee—\$50;
- p. Reinstatement of prescriptive authority privileges—\$100;
- q. Verification of licensure—\$25;
- r. LARN Compact Conversion application—\$50
2. Miscellaneous
 - a. Consultation—\$100/hour;
 - b. Photo copies—\$0.50/page;
 - c. Certified Documents—\$1.00/page;
 - d. Listing of Registered Nurses/Advanced Practice
 - i. Registered Nurses—\$10 programming fee plus costs as follows \$0.02/per name on disk
 - e. Special Programming Request Actual Costs—minimum \$100 per program

B. - C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:918 and R.S. 37:927.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, LR 8:417 (August 1982), amended by the Department of Health and Hospitals, Board of Nursing, LR 14:533 (August 1988), LR 22:981 (October 1996), repromulgated LR 24:1293 (July 1998), amended LR 26:84 (January 2000), LR 30:2829 (December 2004), LR:31:2027 (August 2005), LR 36:1246 (June 2010), LR 37:3027 (October 2011). LR 40:1696 (September 2014), LR

Family Impact Statement

The proposed additions and/or changes to the rules of the board, Louisiana State Board of Nursing 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, there should be no known or foreseeable effect on:

1. the stability of the family;
2. the authority and rights of parents regarding the education and supervision of their children;
3. the functioning of the family;
4. a family's earnings and budget;
5. the behavior and personal responsibility of the children; or
6. the family's ability or that of the local government to perform the function as contained in the proposed Rule.

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 not have an impact on child, individual, or family poverty in relation to individual or community asset development as described on R.S. 49:973.

Provider Impact Statement

In compliance with House Concurrent Resolution (HCR) 170 of the 2014 Regular Session of the Louisiana

Legislature, the provider impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will not have an impact on the staffing level requirements or qualifications required to provide the same level of service, no direct or indirect cost to the provider to provide the same level of service, and will have no impact on the provider's ability to provide the same level of service as described in HCR 170.

Public Comments

Interested persons may submit written comments on the proposed Rule to Karen C. Lyon, 17373 Perkins Road, Baton Rouge, LA 70810, or by facsimile to (225) 755-7585. All comments must be submitted by 5 p.m. on or before May 10, 2019.

Dr. Karen C. Lyon
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Application Fee for Compact Licensure

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed rule changes will not result in additional costs or savings for state or local governmental units. The proposed rule changes add a one-time \$50 fee to offset costs for the LA State Board of Nursing (LSBN) to convert licenses of registered nurses (RNs) licensed prior to June 30, 2019, from a single-state license to a multi-state license under the auspices of the Nurse Licensure Compact (NLC) for RNs (See Part II). Act 577 of the 2018 Regular Session codified Louisiana's participation in the NLC, which allows for RNs with multi-state licensure to practice in states that belong to the Compact. For reference, RNs licensed on or after July 1, 2019, will receive multi-state licensure during the process of normal licensure. As a result, the amount of people who may convert their license from a single-state to a multi-state is limited only to persons licensed prior to June 30, 2019.

The LSBN will utilize the fee to offset administrative costs and overtime costs as needed associated with its duty to review and process applications for multi-state licensure to ensure that the applicant meets the criteria for NLC licensure. Once the applicant submits the application, LSBN staff estimate that it will take two hours to review and process each application. Additional processing time may be needed if the applicant has current disciplinary issues or has a criminal background check report that warrants additional investigatory review. The board anticipates the fee will offset any aforementioned administrative and overtime costs.

For reference, LSBN currently has 66,534 active RNs. Based on information gathered from other compact states, the LSBN anticipates that 5% of licensees will elect to convert their single state license to the multi-state license in the first year, resulting in 3,327 applications to be processed. Using the application review and processing estimate of two hours, it will take 6,654 man-hours (3,327 * 2) to process 3,327 new applications. The current hourly rate for LSBN licensure staff is \$23 per hour. To the extent all applications require overtime expenses, the LSBN's expenditures for this service will total \$153,042 in FY 20.

Furthermore, the proposed rule changes make technical revisions.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rule changes will increase SGR collections for the LSBN by an indeterminable amount beginning in FY 20 and in subsequent fiscal years. The proposed rule changes add a

one-time \$50 fee for registered nurses (RNs) regulated by the LA State Board of Nursing (LSBN) licensed prior to June 30, 2019, who elect to convert their license to practice from a single-state license to a multi-state license under the auspices of the Nurse Licensure Compact (NLC) for RNs. The LSBN will begin processing license conversions in FY 20. For reference, RNs licensed on or after July 1, 2019, will receive multi-state licensure during the process of their normal licensure, which limits the number of persons who may convert their license from a single-state to a multi-state.

For reference, LSBN currently has 66,534 active RNs. Based on information gathered from other compact states, the LSBN anticipates that 5% of licensees will elect to convert their single state license to the multi-state license in the first year, resulting in 3,327 applications to be processed. To the extent this occurs, the LSBN will realize an aggregate one-time SGR increase of \$166,350 in FY 20. However, because the number of licensees who will seek license conversion is unknown, the exact FY 20 revenue increase is indeterminable. Furthermore, to the extent additional RNs holding single-state licenses seek conversion to multi-state licensure in FY 21 or after, the LSBN will realize an additional \$50 per licensee.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The proposed rule changes benefit Louisiana RNs licensed prior to June 30, 2019, who elect to convert their single state license to a multi-state license, which will allow them expanded mobility and will help eliminate duplicative licensure when practicing in multiple states. However, RNs seeking multi-state licensure will be required to pay an application fee of \$50 to offset expenses incurred because of the additional workload associated with the new application.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no anticipated material effect on competition and employment as a result of the proposed rule changes.

Wanda Matthews
Chief Regulatory Officer
1904#033

Evan Brasseaux
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Health Board of Nursing

Undergraduate Clinical Courses (LAC 46:XLVII.3324)

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. 37:917-918, that the Louisiana State Board of Nursing (LSBN) is proposing rule changes to LAC 46:XLVII 3324.C. and E. that will allow discretion in rendering a decision for nursing students who falsify their application or fail to disclose information which should have been reported to LSBN. Some students are being penalized for actions that were taken at a young age or that they assumed were expunged from their record. The current rule denies enrollment/progression in clinical courses and the ability to resubmit an application for a minimum of five years. Because of the broad range of case-by-case circumstances, all students should be evaluated individually and decisions rendered in accordance with our current Just Culture philosophy as we do for other disciplinary actions. The proposed rule change will state "up to five years"

instead of a “minimum of five years” and will allow staff and the appointing authority discretion in adjudicating each application. This allows for the situation to be evaluated and a fair decision rendered according to the severity of the infraction(s). A technical change in Chapter 33, Section 3324 C. is deemed necessary to give the appointing authority the flexibility to render a decision that is not aligned with a permanent action(s).

Title 46
PROFESSIONAL AND OCCUPATIONAL
STANDARDS

Part XLVII. Nurses: Practical Nurses and Registered Nurses

Subpart 2. Registered Nurses

Chapter 33. General

Subchapter C. Registration and Registered Nurse Licensure

§3324. Permission to Enroll or Progress in Undergraduate Clinical Nursing Courses

A. – B.6. ...

C. Applicants who falsify the application or fail to disclose information that should have been reported to the board may be denied enrollment/progression in clinical nursing courses and may not be eligible to resubmit an application until completion of the disciplinary process. Falsifying an application may result in denial of permission to enroll in clinical nursing courses or application for licensure as a registered nurse in Louisiana for up to five years.

D. ...

E. Evidence of violation of R.S. 37:911 et seq., or of grounds for denial or delay of approval to enroll in clinical nursing courses as specified in LAC 46:XLVII.3331 or acts of omissions which constitute grounds for disciplinary action as defined in R.S. 37:921 and LAC 46: XLVII.3403 and 3405 may result in immediate denial to progress in clinical nursing courses until completion of the disciplinary process.

F. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:918.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Nursing, LR 42:753 (May 2016), LR 45:

Family Impact Statement

The proposed additions and/or changes to the rules of the board, Louisiana State Board of Nursing 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, there should be no known or foreseeable effect on:

1. the stability of the family;
2. the authority and rights of parents regarding the education and supervision of their children;
3. the functioning of the family;
4. a family's earnings and budget;
5. the behavior and personal responsibility of the children; or
6. the family's ability or that of the local government to perform the function as contained in the proposed Rule.

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 not have an impact on child, individual, or family poverty in relation to individual or community asset development as described on R.S. 49:973.

Provider Impact Statement

In compliance with House Concurrent Resolution (HCR) 170 of the 2014 Regular Session of the Louisiana Legislature, the provider impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will not have an impact on the staffing level requirements or qualifications required to provide the same level of service, no direct or indirect cost to the provider to provide the same level of service, and will have no impact on the provider's ability to provide the same level of service as described in HCR 170.

Public Comments

Interested persons may submit written comments on the proposed Rule to Karen C. Lyon, 17373 Perkins Road, Baton Rouge, LA 70810, or by facsimile to (225) 755-7585. All comments must be submitted by 5 p.m. on or before May 10, 2019.

Dr. Karen C. Lyon
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Undergraduate Clinical Courses

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed rule changes will not result in any costs or savings to state or local governmental units other than costs for the LA State Board of Nursing (LSBN) to publish the proposed rules changes in the Louisiana Register, which are estimated to be \$200 in FY 19. The proposed rule changes to LAC 46:XLVII 3324.C. and E. will allow discretion in rendering a decision for nursing students who falsify their application or fail to disclose information which should have been reported to the LSBN.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rule changes will not affect revenue collections for state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The proposed rule change may benefit prospective nursing students who are seeking to apply for undergraduate nursing courses but falsify or omit certain information on their applications. The current rules deny enrollment/progression in clinical courses and the ability to resubmit an application for a minimum of five years if students falsify or omit information on their applications. The proposed rule changes amend the timeline for which a student may be prohibited from reapplying from a minimum of five years to up to five years and will allow staff and the LSBN discretion in adjudicating each application. This allows for the situation to be evaluated and a fair decision

rendered according to the severity of the infraction(s). Furthermore, a technical change in Chapter 33, Section 3324 C. is deemed necessary to give the LSBN the flexibility to render a decision that is not aligned with a permanent action(s).

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule changes will not affect competition and/or employment.

Wanda Matthews
Chief Regulatory Officer
1904#032

Evan Brasseaux
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Health
Board of Pharmacy**

Marijuana Pharmacies
(LAC 46:LIII.2441, 2443 and 2457)

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 hereby gives notice of its intent to amend §2441, §2443 and §2457 of its rules for marijuana pharmacies. The proposed amendments for §2441 will amend the definition of advertising so as to permit the dissemination of educational information about marijuana products; it will also update the definition of marijuana to conform to the current statutory definition. The proposed amendments for §2443 will repeal the limits on the amount of tetrahydrocannabinol (THC) in the dosage form and the packaging for marijuana products, and will also require the inclusion of a product identification code on the label of a marijuana product. The proposed amendments for §2457 will remove the requirements for the physician recommendation to exist in written form and will add the requirement for the patient's debilitating medical condition to be recorded on the recommendation.

Title 46

**PROFESSIONAL AND OCCUPATIONAL
STANDARDS**

Part LIII. Pharmacists

Chapter 24. Limited Service Providers

Subchapter E. Marijuana Pharmacy

§2441. Definitions

A. As used in this Subchapter, the following terms shall have the meaning ascribed to them in this Section:

Advertisement—all representations disseminated in any manner or by any means, other than by labeling, for the purpose of inducing, or which are likely to induce, directly or indirectly, the purchase of marijuana, excluding information of an educational nature designed to inform citizens of the nature and form of the state's therapeutic marijuana program and its legally permitted products.

Marijuana—all parts of plants of the genus *Cannabis*, whether growing or not, the seeds thereof, the resin extracted from any part of such plant, and every compound, manufacture, salt, derivative, mixture, or preparation of such plant, its seeds or resin, but shall not include the mature

stalks of such plant, fiber produced from such stalks, oil or cake made from the seeds of such plant, any other compound, manufacture, salt, derivative, mixture, or preparation of such mature stalks (except the resin extracted therefrom), fiber, oil, or cake, or the sterilized seed of such plant which is incapable of germination, or cannabidiol when contained in a drug product approved by the United States Food and Drug Administration.

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

HISTORICAL NOTE: Promulgated by the Department of Health, Board of Pharmacy, LR 43:1538 (August 2017), amended LR.

§2443. Marijuana Products

A. - C.3. ...

D. Packaging and Labeling Requirements

1. Packaging.

a. ...

b. Repealed.

c. Repealed.

d. - e.v. ...

2. Labeling

a. - a.vii. ...

viii. A product identification code registered with the board.

D.2.b. - E.4.f. ...

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

HISTORICAL NOTE: Promulgated by the Department of Health, Board of Pharmacy, LR 43:1540 (August 2017), amended LR.

§2457. Standards of Practice

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

D. Recordkeeping Requirements

1. Prescription/recommendation/order (hereinafter, "request") for Marijuana

a. - c. Repealed.

d. ...

e. The request shall identify the physician issuing the request as well as the person and the person's debilitating medical condition for which the marijuana product is intended.

2. - 6. ...

E. Professional Practice Standards

1. ...

2. Labeling of Marijuana Product Dispensed

a. - b.viii. ...

ix. Directions for use of the product;

2.b.x. - 5.e.iv. ...

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

HISTORICAL NOTE: Promulgated by the Department of Health, Board of Pharmacy, LR 43:1550 (August 2017), amended LR 45:

Family Impact Statement

In accordance with Section 953 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. The following statements will be published in the Louisiana Register with the proposed agency rule.

1. The effect on the stability of the family. The proposed rule amendments will have no effect on the stability of the family.

2. The effect on the authority and rights of parents regarding the education and supervision of their children. The proposed rule amendments will have no effect on the authority and rights of parents regarding the education and supervision of their children.

3. The effect on the functioning of the family. The proposed rule amendments will have no effect on the functioning of the family.

4. The effect on family earnings and family budget. The proposed rule amendments will have no effect on family earnings or family budget.

5. The effect on the behavior and personal responsibility of children. The proposed rule amendments will have no effect on the behavior and personal responsibility of children.

6. The ability of the family or a local government to perform the function as contained in the proposed rule. The proposed rule amendments will have no effect on the ability of the family or a local government to perform the activity 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, repeal, or amendment.

1. The effect on household income, assets, and financial security. The proposed rule amendments will have no effect on household income, assets, or financial security.

2. The effect on early childhood development and preschool through postsecondary education development. The proposed rule amendments will have no effect on early childhood development or preschool through postsecondary education development.

3. The effect on employment and workforce development. The proposed rule amendments will have no effect on employment or workforce development.

4. The effect on taxes and tax credits. The proposed rule amendments will have no effect on taxes or tax credits.

5. The effect on child and dependent care, housing, health care, nutrition, transportation, and utilities assistance. The proposed rule amendments will have no effect on child and dependent care, housing, health care, nutrition, transportation, or utilities assistance.

Provider Impact Statement

In accordance with House Concurrent Resolution No. 170 of the Regular Session of the 2014 Legislature, there is hereby submitted a provider impact statement on the rule proposed for adoption, repeal, or amendment. This will certify the agency has considered, without limitation, the following effects on the providers of services to individuals with developmental disabilities:

1. The effect on the staffing level requirements or qualifications required to provide the same level of service.

The proposed rule amendments will have no effect on the staffing level requirements or the qualifications for that staff 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.

The proposed rule amendments will have no 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. The proposed Rule amendments will have no effect on the ability of the provider to provide the same level of service.

Small Business Analysis

In accordance with Section 965 of Title 49 of the Louisiana Revised Statutes, there is hereby submitted a regulatory flexibility analysis on the rule proposed for adoption, repeal, or amendment. This will certify the agency has considered, without limitation, each of the following methods of reducing the impact of the proposed Rule on small businesses:

1. The establishment of less stringent compliance or reporting requirements for small businesses. There are no compliance or reporting requirements in the proposed Rule amendments.

2. The establishment of less stringent schedules or deadlines for compliance or reporting requirements for small businesses. There are no specific schedules for deadlines in the proposed Rule amendments.

3. The consolidation or simplification of compliance or reporting requirements for small businesses. There are no compliance or reporting requirements in the proposed Rule amendments.

4. The establishment of performance standards for small businesses to replace design or operational standards required in the proposed rule. One of the proposed Rule amendments will require the inclusion of an additional data element on the label for a marijuana product, for a product identification code. The producer is free to determine how to incorporate that data element on the label. One of the proposed Rule amendments will require the physician to include the patient's debilitating medical condition in the recommendation. This requirement mirrors the same requirement in the rules from the state medical board, and establishes the eligibility for the patient to receive the marijuana product.

5. The exemption of small businesses from all or any part of the requirements contained in the proposed Rule. There are no exemptions for small businesses.

Public Comments

Interested persons may submit written comments, via United States Postal Service or other mail carrier, or in the alternative by personal delivery to Malcolm J Broussard, Executive Director, at the office of the Louisiana Board of Pharmacy, 3388 Brentwood Drive, Baton Rouge, Louisiana 70809-1700. He is responsible for responding to inquiries regarding these proposed Rule amendments. A public hearing on these proposed Rule amendments is scheduled for 9:00 a.m. on Wednesday, May 29, 2019 at the Board office. At that time, all interested persons will be afforded an opportunity to submit data, views, or arguments, either orally or in writing. The deadline for the receipt of all comments is 12 p.m. that same day.

Malcolm J Broussard
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Marijuana Pharmacies**

NOTICE OF INTENT

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

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed rule changes will result in an initial expenditure increase of \$20,000 in FY 20 and \$18,000 annually beginning in FY 21 and in subsequent fiscal years for the LA Board of Pharmacy (LBP). The proposed rule changes will require vendors of medical marijuana to register product identification codes with the LBP, which necessitates the Board acquiring an additional software module for the state's marijuana tracking system to track product identification codes for marijuana products at a cost of \$18,000 per year. The proposed rule changes will also require a one-time expenditure of \$2,000 in FY 20 for the Board to publish the proposed and final rule amendments.

The proposed rule changes amend the definition of "advertisements" regarding medical marijuana; amend the definition of "marijuana"; delete limitations on the amount of tetrahydrocannabinol (THC) that can be included in a marijuana product; add the aforementioned addition of product identification codes for marijuana products; delete provisions associated with emergency dispensing of medical marijuana; revise record-keeping requirements for pharmacists regarding recommendations of medical marijuana; and revise labeling requirements describing the directions for use of a dispensed marijuana product.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rule changes will not affect revenue collections for state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The proposed rule changes affect marijuana product producers, as they will no longer be limited in the amount of tetrahydrocannabinol (THC) per dose or per package; they will be able to produce marijuana products appropriate for the qualifying medical conditions in Louisiana. Additionally, the proposed rule changes modify advertising restrictions on marijuana pharmacies, allowing them to disseminate educational information regarding marijuana products. Furthermore, the proposed rule changes require marijuana product producers to register product identification codes with the LBP. Lastly, the proposed rule changes revise labeling requirements describing the directions for use of a dispensed marijuana product, removing the requirement that they be limited to the information in a physician's recommendation.

The proposed rule changes affect physicians who recommend medical marijuana and their patients, as well as dispensers of medical marijuana, by deleting provisions associated with emergency dispensing of medical marijuana. Furthermore, the proposed rule changes amend recordkeeping requirements for pharmacists associated with recommendations of medical marijuana, requiring they bear the recommending physician's name, the patient's name, and the authorized condition for which medical marijuana is recommended.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule changes will not affect competition or employment.

Malcolm J. Broussard
Executive Director
1904#049

Evan Brasseaux
Staff Director
Legislative Fiscal Office

**Early and Periodic Screening, Diagnosis and Treatment
Personal Care Services (LAC 50:XV.Chapter 73)**

The Department of Health, Bureau of Health Services Financing proposes to amend LAC 50:XV.Chapter 73 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This proposed Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

The Department of Health, Bureau of Health Services Financing proposes to amend the provisions governing personal care services (PCS) in the Early and Periodic Screening, Diagnosis and Treatment (EPSDT) Program in order to clarify these provisions and update requirements relative to utilization of an electronic visit verification system, billable units, and delivery of PCS.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part XV. Services for Special Populations

Subpart 5. Early and Periodic Screening, Diagnosis, and Treatment

Chapter 73. Personal Care Services

§7301. Introduction

A. Early Periodic Screening, Diagnosis and Treatment (EPSDT) Personal Care Services (PCS)

1. Personal Care Services are services which prevent institutionalization and enable the beneficiary to live in the community. PCS are tasks which are medically necessary when physical or cognitive limitations due to illness or injury necessitate assistance with:

- a. eating;
- b. toileting;
- c. bathing;
- d. bed mobility;
- e. transferring;
- f. dressing;
- g. locomotion;
- h. personal hygiene; or
- i. bladder or bowel requirements.

2. 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 21:947 (September 1995), repromulgated for LAC codification, LR 29:177 (February 2003), amended by the Department of Health, Bureau of Health Services Financing, LR 45:

§7303. Services

A. The beneficiary shall be allowed the freedom of choice to select an EPSDT PCS provider.

B. EPSDT personal care services include:

1. basic personal care, including toileting, grooming, bathing and assistance with dressing;
2. assistance with bladder and/or bowel requirements or problems, including helping the beneficiary to and from

the bathroom or assisting the beneficiary with bedpan routines, but excluding catheterization;

3. assistance with eating and food, nutrition, and diet activities, including preparation of meals for the beneficiary only;

4. performance of incidental household services essential to the beneficiary's health and comfort in her/his home. Examples of such activities are changing and washing bed linens and rearranging furniture to enable the beneficiary to move about more easily in his/her own home;

5. accompanying, not transporting the beneficiary to and from his/her physician and/or other medical appointments for necessary medical services; and

6. assistance with locomotion in their place of service, while in bed or from one surface to another. Assisting the beneficiary with transferring and bed mobility.

7. - 8. Repealed.

C. Intent of Services

1. EPSDT PCS shall not be provided to meet childcare needs nor as a substitute for the parent or guardian in the absence of the parent or guardian.

2. EPSDT PCS shall not be used to provide respite care for the primary caregiver.

3. EPSDT PCS provided in an educational setting shall not be reimbursed if these services duplicate services that are provided by or shall be provided by the Department of Education.

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 21:947 (September 1995), repromulgated for LAC codification, LR 29:177 (February 2003), amended by the Department of Health, Bureau of Health Services Financing, LR 45:

§7305. Beneficiary Qualifications

A. Conditions for Provision of EPSDT Personal Care Services

1. The person must be a categorically-eligible Medicaid beneficiary birth through 20 years of age (EPSDT eligible) and have been prescribed medically necessary, age appropriate EPSDT PCS by a practitioner (physician, advance practice nurse, or physician assistant).

2. An EPSDT-eligible shall meet medical necessity criteria as established by the Bureau of Health Services Financing (BHSF) which shall be based on functional and medical eligibility and impairment in at least two activities of daily living (ADL), as determined by BHSF or its designee.

3. EPSDT PCS shall be prescribed if medically necessary by the beneficiary's attending practitioner initially and every 180 days thereafter (or rolling six months), and when changes in the plan of care occur. The plan of care shall be acceptable only after the practitioner signs and dates the completed form. The practitioner's signature must be an original signature and not a rubber stamp.

4. Repealed.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 21:947 (September 1995), repromulgated for LAC codification, LR 29:177 (February 2003), amended LR

30:253 (February 2004), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 40:2259 (November 2014), amended by the Department of Health, Bureau of Health Services Financing, LR 45:

§7307. Prior Authorization

A. EPSDT personal care services are subject to prior authorization (PA) by BHSF or its designee. A face-to-face medical assessment shall be completed by the practitioner. The beneficiary's choice of a personal care services provider may assist the practitioner in developing a plan of care which shall be submitted by the practitioner for review/approval by BHSF or its designee. The plan of care shall specify:

1. the specific personal care service(s) to be provided (i.e., activities of daily living for which assistance is needed); and

2. ...

B. Dates of service not included in the plan of care or provided prior to approval of the plan of care by BHSF or its designee are not reimbursable. The beneficiary's attending practitioner shall review and/or modify the plan of care and sign off on it prior to the plan of care being submitted to BHSF or its designee. A copy of the practitioner's prescription for EPSDT PCS shall be included with the plan of care at the time of submission for prior authorization and may not be dated after delivery of services has started. A copy of the prescription shall be retained in the EPSDT PCS provider's files.

C. A new plan of care shall be submitted at least every 180 days (rolling six months) with approval by the beneficiary's attending practitioner. The plan of care shall reassess the patient's need for EPSDT PCS, including any updates to information which has changed since the previous assessment was conducted (with explanation of when and why the change(s) occurred).

D. Amendments or changes in the plan of care shall be submitted as they occur and shall be treated as a new plan of care which begins a new six-month service period. Revisions of the plan of care may be necessary because of changes that occur in the beneficiary's medical condition which warrant an additional type of service, a change in frequency of service or a change in duration of service. Documentation for a revised plan of care is the same as for a new plan of care. Both a new start date and reassessment date shall be established at the time of reassessment. The EPSDT PCS provider may not initiate services or changes in services under the plan of care prior to approval by BHSF or its designee.

E. Beneficiaries who have been designated by BHSF as chronic needs are exempt from the standard prior authorization process. Although a new request for prior authorization shall still be submitted every 180 days, the EPSDT PCS provider shall only be required to submit a PA request form accompanied by a statement from a practitioner verifying that the beneficiary's condition has not improved and the services currently approved must be continued. Only BHSF or its designee can grant the designation of a chronic needs case to a beneficiary.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 21:947 (September 1995), repromulgated

for LAC codification, LR 29:177 (February 2003), amended LR 30:253 (February 2004), amended by the Department of Health, Bureau of Health Services Financing, LR 45:

§7309. Place of Service

A. EPSDT PCS shall be provided if medically necessary in the beneficiary's home or in another location outside of the beneficiary's home. The beneficiary's home is defined as the beneficiary's own home, which includes the following:

1. - 3. ...
4. a foster home; or
5. a supervised living facility.
6. - 6.a.Repealed.

B. Institutions such as hospitals, institutions for mental disease, nursing facilities, intermediate care facilities for individuals with intellectual disabilities, or residential treatment centers are not considered a beneficiary's home.

C. Medicaid prohibits multiple professional disciplines from being present in the beneficiary's residential setting at the same time. However, multiple professionals may provide services to multiple beneficiaries in the same residential setting when it is medically necessary. This includes but is not limited to nurses, home health aides, and therapists. BHSF or its designee will determine medical necessity for fee-for-service beneficiaries.

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 21:948 (September 1995), repromulgated for LAC codification, LR 29:178 (February 2003), amended by the Department of Health, Bureau of Health Services Financing, LR 45:

§7311. Service Limits

A. EPSDT PCS are not subject to service limits. The units of service approved shall be based on the physical requirements of the beneficiary and medical necessity for the covered services.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 21:947 (September 1995) repromulgated for LAC codification, LR 29:178 (February 2003), amended LR 30:253 (February 2004), amended by the Department of Health, Bureau of Health Services Financing, LR 45:

§7313. Standards for Payment

A. EPSDT PCS shall only be provided to EPSDT beneficiaries and only by a staff member of a licensed personal care services agency enrolled as a Medicaid provider. A copy of the current PCS license must accompany the Medicaid application for enrollment as a PCS provider and copies of current licenses shall be submitted to Provider Enrollment thereafter as they are issued, for inclusion in the enrollment record. The provider's record shall always include a current PCS license at all times. Medicaid enrollment is limited to providers located in Louisiana and certain out-of-state providers located only in the trade areas of Arkansas, Mississippi, and Texas.

B. The unit of service billed by EPSDT PCS providers shall be one-quarter hour, exclusive of travel time to arrive at the beneficiary's home. The entire 15 minutes of the unit of time shall have been spent providing services in order to bill a unit.

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 21:947 (September 1995), repromulgated for LAC codification, LR 29:178 (February 2003), amended by the Department of Health, Bureau of Health Services Financing, LR 45:

§7315. Provider Qualifications

A. Personal care services shall be provided by a licensed personal care services agency which is duly enrolled as a Medicaid provider. Staff assigned to provide personal care services to a beneficiary shall not be a member of the beneficiary's immediate family. Immediate family is defined as the father, mother, sister, brother, spouse, child, grandparent, in-law, or any individual acting as parent or guardian of the beneficiary. Personal care services may be provided by a person of a degree of relationship to the beneficiary other than immediate family, only if the relative is not living in the beneficiary's home, or, if she/he is living in the beneficiary's home solely because her/his presence in the home is necessitated by the amount of care required by the beneficiary.

B. An unrelated staff member of a licensed personal care services provider may not live in the same home as the beneficiary.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 21:947 (September 1995), repromulgated for LAC codification, LR 29:178 (February 2003), amended by the Department of Health, Bureau of Health Services Financing, LR 45:

§7317. Provider Responsibilities

A. The licensed PCS agency is responsible for ensuring that all direct service workers providing EPSDT PCS meet all training requirements applicable under state law and regulations. The direct service worker must successfully complete the applicable examination for certification for PCS. Documentation of the direct service worker's completion of all applicable requirements shall be maintained by the EPSDT PCS provider.

B. The agency shall use an electronic visit verification (EVV) system for time and attendance tracking and billing for EPSDT PCS.

1. EPSDT PCS providers identified by BHSF shall use:

- a. the (EVV) system designated by the department;
- or
- b. an alternate system that:
 - i. has successfully passed the data integration process to connect to the designated EVV system; and
 - ii. is approved by the department.

2. Reimbursement for services may be withheld or denied if an EPSDT PCS provider:

- a. fails to use the EVV system; or
- b. uses the system not in compliance with Medicaid's policies and procedures for EVV.

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 21:947 (September 1995), repromulgated

for LAC codification, LR 29:178 (February 2003), amended by the Department of Health, Bureau of Health Services Financing, LR 45:

§7319. EPSDT PCS Provider Responsibilities

A. Documentation

1. Documentation for EPSDT PCS provided shall include at a minimum, the following:

- a. ...
- b. daily notes by PCS provider denoting date of service and services provided (checklist is adequate);
- c. - d. ...
- e. health condition of beneficiary;
- f. - h. ...

2. There shall be a clear audit trail between:

- a. the prescribing practitioner;
- b. ...
- c. the person providing the personal care services to the beneficiary; and
- d. ...

B. Agencies providing EPSDT PCS shall conform to all applicable Medicaid regulations as well as all applicable laws and regulations by federal, state, and local governmental entities including, but not limited to:

1. - 6. ...
7. Workman's Compensation; and
8. ...

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 21:947 (September 1995), repromulgated for LAC codification, LR 29:178 (February 2003), amended by the Department of Health, Bureau of Health Services Financing, LR 45:

§7321. Reimbursement

A. Reimbursement for EPSDT PCS shall be the lesser of billed charges or the maximum unit rate set by the department. The maximum rate is a flat rate for each approved unit of service provided to the beneficiary. This rate shall be adjusted as necessary by the department.

1. One quarter hour (15 minutes) is the standard unit of service, exclusive of travel time to arrive at the beneficiary's home.

2. ...

B. Personal Care Workers Wage Enhancement

1. An hourly wage enhancement payment in the amount of \$2 will be reimbursed to providers for full-time equivalent (FTE) personal care workers who provide services to Medicaid beneficiaries.

a. At least 75 percent of the wage enhancement shall be paid to personal care workers as wages. If less than 100 percent of the enhancement is paid in wages, the remainder, up to 25 percent shall be used to pay employer-related taxes, insurance and employee benefits.

b. The minimum hourly rate paid to personal care workers shall be the current minimum wage plus 75 percent of the wage enhancement.

2. - 7.d. 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 29:179 (February 2003), amended LR 33:2202 (October 2007), repromulgated LR 33:2425 (November

2007), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 36:2561 (November 2010), amended by the Department of Health, Bureau of Health Services Financing, LR 45:

§7323. Nonreimbursable Services

A. The following services are not appropriate for personal care and are not reimbursable as EPSDT personal care services:

1. - 4. ...

5. administration of medicine (an EPSDT PCS direct service worker may only remind/prompt about self-administered medication to an EPSDT eligible beneficiary who is over the age of 18);

6. cleaning of the home in an area not occupied by the beneficiary;

a. Repealed.

7. laundry, other than that incidental to the care of the beneficiary;

a. Repealed.

EXAMPLE: Laundering of clothing and bedding for the entire household, as opposed to simple laundering of the beneficiary's clothing or bedding.

8. shopping for groceries or household items other than items required specifically for the health and maintenance of the beneficiary, and not for items used by the rest of the household;

9. ...

10. teaching a family member or friend how to care for a beneficiary who requires frequent changes of clothing or linens due to total or partial incontinence for which no bowel or bladder training program for the patient is possible;

11. - 15. ...

16. specialized aide procedures such as:

a. rehabilitation of the beneficiary (exercise or performance of simple procedures as an extension of physical therapy services);

b. measuring/recording the beneficiary's vital signs (temperature, pulse, respirations and/or blood pressure, etc.) or intake/output of fluids;

c. ...

d. special procedures such as:

i. - viii. ...

ix. weight measurement; and

x. ...

17. - 29. ...

B. - D. 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 21:947 (September 1995), repromulgated for LAC codification, LR 29:179 (February 2003), amended by the Department of Health, Bureau of Health Services Financing, LR 45:

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

Family Impact Statement

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed Rule on the family has been considered. It is anticipated that this proposed Rule will have a positive impact on family

functioning, stability and autonomy as described in R.S. 49:972 by helping to ensure that participants receive the services as described in their plan of care.

Poverty Impact Statement

In compliance with Act 854 of the 2012 Regular Session of the Louisiana Legislature, the poverty impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will have no impact on child, individual, or family poverty in relation to individual or community asset development as described in R.S. 49:973.

Small Business Analysis

In compliance with House Concurrent Resolution (HCR) 170 of the 2014 Regular Session of the Louisiana Legislature, the provider impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will have no impact on the staffing level requirements or qualifications required to provide the same level of service, no direct or indirect cost to the provider to provide the same level of service, and will have no impact on the provider's ability to provide the same level of service as described in HCR 170.

Public Comments

Interested persons may submit written comments to Jen Steele, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. Ms. Steele is responsible for responding to inquiries regarding this proposed Rule. The deadline for submitting written comments is at close of business, 4:30 p.m., on May 30, 2019.

Public Hearing

Interested persons may submit a written request to conduct a public hearing by U.S. mail to the Office of the Secretary ATTN: LDH Rulemaking Coordinator, Post Office Box 629, Baton Rouge, LA 70821-0629; however, such request must be received no later than 4:30 p.m. on May 10, 2019. If the criteria set forth in R.S. 49:953(A)(2)(a) are satisfied, LDH will conduct a public hearing at 9:30 a.m. on May 30, 2019 in Room 118 of the Bienville Building, which is located at 628 North Fourth Street, Baton Rouge, LA. To confirm whether or not a public hearing will be held, interested persons should first call Stanley Bordelon at (225) 219-3454 after May 10, 2019. If a public hearing is to be held, all interested persons are invited to attend and present data, views, comments, or arguments, orally or in writing. In the event of a hearing, parking is available to the public in the Galvez Parking Garage which is located between North Sixth and North Fifth/North and Main Streets (cater-corner from the Bienville Building). Validated parking for the Galvez Garage may be available to public hearing attendees when the parking ticket is presented to LDH staff at the hearing.

Rebekah E. Gee MD, MPH
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Early and Periodic Screening, Diagnosis and Treatment Personal Care Services

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

It is anticipated that implementation of this proposed rule will have a minimal, but indeterminable programmatic fiscal impact to the state for FY 18-19, FY 19-20, and FY 20-21. To the extent that implementation of electronic visit verification reduces inappropriate billing, expenditures will be reduced and savings will be recognized. It is anticipated that \$2,268 (\$1,134 SGF and \$1,134 FED) will be expended in FY 18-19 for the state's administrative expense for promulgation of this proposed rule and the final rule.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

It is anticipated that the implementation of this proposed rule will have a minimal, but indeterminable impact on revenue collections for the federal share of the programmatic costs for FY 18-19, FY 19-20, and FY 20-21. It is anticipated that \$1,134 will be collected in FY 18-19 for the federal share of the expense for promulgation of this proposed rule and the final rule.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

This proposed rule amends the provisions governing personal care services (PCS) in the Early and Periodic Screening, Diagnosis and Treatment (EPSDT) Program in order to clarify these provisions and update requirements relative to utilization of an electronic visit verification system, billable units, and delivery of PCS. This proposed rule may impact EPSDT PCS providers since it requires them to use a department-approved electronic visit verification system. It is anticipated that implementation of this proposed rule will result in an indeterminable programmatic fiscal impact for the provision of EPSDT PCS services in FY 18-19, FY 19-20 and FY 20-21, but will be beneficial by clarifying the providers that are able to render these services and providing clear and accurate participation requirements.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This rule has no known effect on competition and employment.

Jen Steele
Medicaid Director
1904#068

John D. Carpenter
Legislative Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

Department of Health Bureau of Health Services Financing

Hospital Licensing Standards
(LAC 48:I.Chapter 93)

The Department of Health, Bureau of Health Services Financing proposes to amend LAC 48:I.Chapter 93 as authorized by R.S. 36:254 and R.S. 40:2100-2115. This proposed Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950, et seq.

The Department of Health, Bureau of Health Services Financing proposes to amend the provisions governing the licensing of hospitals in order to clarify the requirements that licensed hospitals shall: 1) be primarily engaged in providing inpatient care and services to inpatients, and 2) ensure that dietary services provided through a contract with a food delivery service meet the same standards as hospitals that provide in-house dietary services to patients.

Title 48
PUBLIC HEALTH—GENERAL
Part I. General Administration
Subpart 3. Licensing

Chapter 93. Hospitals

Subchapter A. General Provisions

§9301. Purpose

A. The purpose of the hospital laws, rules and regulations is to provide for the development, establishment and enforcement of standards for the care of individuals in hospitals and for the construction, maintenance and operation of hospitals which shall promote safe and adequate treatment of individuals in hospitals.

1. - 2.i. Repealed.

B. A hospital shall be licensed in accordance with state law, rules and regulations adopted and established by the state agency responsible for the licensing of hospitals.

C. Primarily Engaged

1. Hospitals shall be primarily engaged, as defined by this Rule and determined by the Department of Health, in providing inpatient hospital services to inpatients, by or under the supervision of licensed physicians. Inpatient hospital services are services defined in this licensing rule and are provided to inpatients of the hospital as one of the following:

a. diagnostic and therapeutic services for medical diagnosis, treatment, and care of injured, disabled, or sick persons; or

b. rehabilitation services for the rehabilitation of injured, disabled, or sick persons.

2. Licensed hospitals designated as psychiatric hospitals and critical access hospitals as defined by the Code of Federal Regulations, and licensed hospitals designated as rural hospitals as defined by R.S. 40:1189.3, are not subject to the primarily engaged requirements.

3. In reaching a determination as to whether or not an entity is primarily engaged in providing inpatient hospital services to inpatients of a hospital, the Department of Health will evaluate the total facility operations and consider multiple factors, subject to paragraph C.4 below.

a. Total Facility Operations. In evaluating the total facility operations, the department will review the actual provision of care and services to two or more inpatients, and the effects of that care, to assess whether the care provided meets the needs of individual patients by way of patient outcomes.

b. Multiple Factors. The factors that the department will consider include, but are not limited to:

i. the entity's average daily census (ADC);

ii. the average length of stay (ALOS);

iii. the number of off-site campus outpatient locations operated by the entity;

iv. the number of provider-based emergency departments for the entity;

v. the number of inpatient beds related to the size of the entity and the scope of the services offered;

vi. the volume of outpatient surgical procedures compared to the inpatient surgical procedures (if surgical services are provided);

vii. staffing patterns; and

viii. patterns of ADC by day of the week.

4. Notwithstanding any other provision of this rule, an entity shall not be considered to be primarily engaged in providing inpatient hospital services to inpatients of a hospital if it has an ADC of less than two, or an average length of stay of less than two.

5. Hospitals are not required to have a specific inpatient bed to outpatient bed ratio in order to meet the definition of primarily engaged.

a. If the hospital has an emergency department (ED), the number of hospital inpatient beds shall be greater than the number of ED beds, with a ratio of not less than 2:1.

D. Except as otherwise provided herein, hospitals shall provide directly or under arrangements the following professional departments, services, facilities and functions which are essential to establish whether a facility is primarily engaged in providing inpatient hospital services:

1. organization and general services;

2. nursing services;

3. pharmaceutical services;

4. radiological services;

5. laboratory services;

6. nutritional and therapeutic dietetic services;

7. medical record services;

8. quality assessment and improvement;

9. physical environment;

10. infection control;

11. respiratory care services.

E. Except as otherwise provided herein, hospitals may provide the following optional services directly or under arrangements:

1. surgical services;

2. anesthesia services;

3. nuclear medicine services;

4. outpatient services;

5. rehabilitation services;

6. psychiatric services;

7. obstetrical and newborn services;

8. pediatric services;

9. emergency services.

AUTHORITY NOTE: Promulgated in accordance with R.S.36:254 and R.S. 40:2100-2115.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, LR 13:246 (April 1987), amended by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 21:177 (February 1995), LR 29:2399 (November 2003), amended by the Department of Health, Bureau of Health Services Financing, LR 45:

§9303. Definitions

A. ...

* * *

Average Daily Census (ADC)—calculated by adding the midnight daily census for each day of the 12-month period and dividing the total number by the number of days in the year. In calculating the ADC for purposes of determining whether an entity meets the requirements of primarily engaged, LDH may utilize a period of between three months and 12 months.

Average Length of Stay (ALOS)—the average of the number of inpatient days a person is in the hospital. ALOS is calculated by dividing the total inpatient days by the total discharges during a specified period of time, which results in

an average number of days in the hospital for each person admitted. In calculating ALOS, LDH may utilize a period of between three months and 12 months.

Department—Louisiana Department of Health.

Food Delivery Services—the transportation of the nutritional and therapeutic dietetic services by a food management company that is delivered to the hospital and served to the patients of the hospital.

Food Management Company—an off-site vendor who provides nutritional and therapeutic dietetic services to the hospital through a contractual agreement and that is required to meet the same standards for food and dietetic services as provided by the hospital directly.

Hospital—any institution, place, building, or agency, public or private, whether for profit or not, maintaining and operating facilities, 24 hours a day, seven days a week, having a minimum of 10 licensed beds, having staff and equipment sufficient to meet patient needs, and providing hospital services, care and treatment for injured, disabled or sick persons who are admitted with the expectation that he or she will require hospital care that is expected to span at least two midnights. Except as otherwise noted in these licensing regulations, a hospital shall be primarily engaged in providing inpatient services to inpatients, by or under the supervision of licensed physicians. The term hospital does not include the following:

a. - b. ...

c. persons, schools, institutions, or organizations engaged in the care and treatment of children with intellectual disabilities and which are required to be licensed by the provisions of the Developmental Disability Law, R.S. 28:451.1 et seq.;

d. - e. ...

f. infirmaries or clinics maintained solely by any college or university exclusively for treatment of faculty, students and employees; or

g. an urgent care clinic.

NOTE: Free standing emergency departments (or an entity that holds itself out to the public mainly as a free standing emergency department) shall not be licensed as a hospital.

Inpatient—a person who admitted to a hospital with the status of inpatient for purposes of receiving hospital services with the expectation that he/she will require hospital care expected to span at least two nights and occupy a bed even though it is later determined that the patient can be discharged or transferred to another hospital and not actually use a hospital bed overnight. Persons in hospital observation status are not inpatients.

Inpatient Hospital Services or Inpatient Service—includes, but is not limited to, the following services provided to inpatients of the hospital as either: diagnostic and therapeutic services for medical diagnosis, treatment, and care of injured, disabled, or sick persons; or rehabilitation services for the rehabilitation of injured, disabled, or sick persons.

a. bed and board;

b. 24-hour nursing services and other related services;

c. use of hospital facilities;
d. medical social services;
e. drugs, biologicals, supplies, appliances, and equipment;

f. certain other diagnostic or therapeutic services;

g. medical or surgical services provided by certain interns or residents-in-training; and

h. transportation services, including transport by ambulance.

Licensed Practical Nurse (LPN)—a person licensed to practice practical nursing by the Louisiana State Board of Practical Nurse Examiners and is practicing within his/her scope of practice, training, experience, and competency.

Nutritional and Therapeutic Dietetic Services—the provision of a nourishing, palatable, well-balanced diet that meets the patient's daily nutritional and special dietary needs in accordance with the licensed practitioner's prescribed plan of care, and taking into consideration the preferences of each patient.

Office of the Secretary—office of the person serving as the Secretary of the Department of Health.

Primarily Engaged—a hospital is directly providing inpatient hospital services to inpatients, by or under the supervision of licensed physicians. Inpatient hospital services are services defined in this licensing rule and are provided to inpatients of the hospital as one of the following:

a. diagnostic and therapeutic services for medical diagnosis, treatment, and care of injured, disabled, or sick persons; or

b. rehabilitation services for the rehabilitation of injured, disabled, or sick persons.

NOTE: Having the capacity or potential to provide inpatient hospital services is not the equivalent of actually providing such care.

AUTHORITY NOTE: Promulgated in accordance with R.S.36:254 and R.S. 40:2100-2115.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 21:177 (February 1995), LR 29:2400 (November 2003), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 36:513 (March 2010), LR 37:3028 (October 2011), LR 38:1413 (June 2012), amended by the Department of Health, Bureau of Health Services Financing, LR 45:

Subchapter G. Nutritional and Therapeutic Dietetic Services

§9377. General Provisions

A. There shall be an organized dietary service that provides nutritional and therapeutic dietetic services to patients. All hospital contracts or arrangements for off-site food preparation shall be with a provider who is licensed by the department's healthcare division or operating under the authority of the federal government.

B. ...

1. The hospital shall provide written notices to the department's Health Standards Section and to the department's Office of Public Health within 10 calendar days of the effective date of the contract.

2. The outside food management company must possess a valid Department of Health, Office of Public Health retail food permit and meet all of the requirements for operating a retail food establishment that serves a highly susceptible population, in accordance with the most current version of the provisions found in Title 51, *Public Health-Sanitary Code*.

3. Either the hospital or the food management company shall employ or contract with a registered dietician who serves the hospital on a full-time, part-time, or consultant basis to ensure that the nutritional needs of the patients are met in accordance with the licensed practitioners' orders and acceptable standards of practice.

AUTHORITY NOTE: Promulgated in accordance with R.S.36:254 and R.S. 40:2100-2115.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing LR 21:177 (February 1995), amended LR 29:2413 (November 2003), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:1413 (June 2012, amended by the Department of Health, Bureau of Health Services Financing, LR 45:

§9379. Organization and Staffing

A. Nutritional and therapeutic dietetic services shall be under the supervision of a registered dietitian, licensed to practice in Louisiana, who is employed either full time, part time or on a consulting basis. If the registered dietitian is not full time, there shall be a full time dietary manager.

B. - B.4.a. ...

C. The registered dietitian shall be responsible for assuring that quality nutritional and therapeutic dietetic services are provided to patients. This shall be accomplished by providing and supervising the nutritional aspects of patient care including nutritional screening, nutritional assessments of patients at nutritional risk, patient education related to nutritional intake and diet therapy, and recording information in the medical record regarding the nutritional status and care of the patient and the patient's response to the therapeutic diet.

D. The hospital shall employ sufficient support personnel, competent in their respective duties, to carry out the function of the dietary service adequate to meet the nutritional and therapeutic dietetic needs of the patients in accordance with the prescribed plan of care.

E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S.36:254 and R.S. 40:2100-2115.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing LR 21:177 (February 1995), amended LR 29:2413 (November 2003), amended by the Department of Health, Bureau of Health Services Financing, LR 45:

§9383. Sanitary Conditions

A. ...

B. All food shall be transported, stored, prepared, distributed and served under sanitary conditions to prevent food borne illness. This includes keeping all readily perishable food and drink at or below 41 degrees Fahrenheit, except when being prepared and served. Refrigerator temperatures shall be maintained at 41 degrees Fahrenheit or below, freezers at 0degrees Fahrenheit or below.

1. For those hospitals that contract with a food delivery service for nutritional and therapeutic dietary

services, food shall be transported only via vehicles designed, equipped, and maintained solely for the purpose of the transportation and delivery of food by the food management company.

C. Hot foods shall leave the kitchen or steam table at or above 140 degrees Fahrenheit, and cold foods at or below 41 degrees Fahrenheit. In-room delivery temperatures shall be maintained at 120 degrees Fahrenheit or above for hot foods and 50 degrees Fahrenheit or below for cold items, except for milk which shall be stored at 41 degrees Fahrenheit. Food shall be transported to the patients' rooms in a manner that protects it from contamination, while maintaining required temperatures.

1. For those hospitals who contract with a food management company for nutritional and therapeutic dietary services, transportation and delivery of such food shall be transported and served in accordance with §9383.A-C.

D. All equipment and utensils used in the preparation and serving of food shall be properly cleansed, sanitized and stored. This includes maintaining a water temperature in dish washing machines at 140 degrees Fahrenheit during the wash cycle (or according to the manufacturer's specifications or instructions) and 180 degrees Fahrenheit for the final rinse. Low temperature machines shall maintain a water temperature of 120 degrees Fahrenheit with 50 parts per million (ppm) of hypochlorite (household bleach) on dish surfaces. For manual washing in a 3 compartment sink, a wash water temperature of 75 degrees Fahrenheit with 50 ppm of hypochlorite or equivalent, or 12.5 ppm of iodine; or a hot water immersion at 170 degrees Fahrenheit for at least 30 seconds shall be maintained. An approved lavatory shall be convenient and equipped with hot and cold water tempered by means of a mixing valve or combination faucet for dietary services staff use. Any self-closing, slow-closing, or metering faucet shall be designed to provide a flow of water for at least 15 seconds without the need to reactivate the faucet. Effective with the promulgation of these requirements, an additional lavatory shall be provided in the dishwasher area in newly constructed hospitals or in existing hospitals undergoing major dietary alterations.

1. For those hospitals that contract nutritional and therapeutic dietary services, such shall be conducted in accordance with the *State Sanitary Code* for the preparing, cleaning, sanitation, and storage of equipment and utensils.

E. - H. ...

I. The physical environment in which all food preparation takes place shall be kept clean and in operating condition.

AUTHORITY NOTE: Promulgated in accordance with R.S.36:254 and R.S. 40:2100-2115.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing LR 21:177 (February 1995), amended LR 29:2414 (November 2003), amended by the Department of Health, Bureau of Health Services Financing, LR 45:

Family Impact Statement

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed Rule on the family has been considered. It is anticipated that this proposed Rule will have a positive effect on the stability of the family as described in R.S. 49:972 by ensuring a safe and effective operation of licensed hospitals.

Poverty Impact Statement

In compliance with Act 854 of the 2012 Regular Session of the Louisiana Legislature, the poverty impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will have no impact on child, individual, or family poverty in relation to individual or community asset development as described in R.S. 49:973.

Provider Impact Statement

In compliance with House Concurrent Resolution (HCR) 170 of the 2014 Regular Session of the Louisiana Legislature, the provider impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will have no impact on the staffing level requirements or qualifications required to provide the same level of service, no direct or indirect cost to the provider to provide the same level of service, and will have no impact on the provider's ability to provide the same level of service as described in HCR 170.

Public Comments

Interested persons may submit written comments to Cecile Castello, Health Standards Section, P.O. Box 3767, Baton Rouge, LA 70821. Ms. Castello is responsible for responding to inquiries regarding this proposed Rule. The deadline for submitting written comments is at close of business, 4:30 p.m., on May 30, 2019.

Public Hearing

The department will conduct a public hearing at 9:30 a.m. on May 30, 2019 in Room 118 of the Bienville Building, which is located at 628 North Fourth Street, Baton Rouge, LA. All interested persons are invited to attend and present data, views, comments, or arguments, orally or in writing. Parking is available to the public in the Galvez Parking Garage which is located between North Sixth and North Fifth/North and Main Streets (cater-corner from the Bienville Building). Validated parking for the Galvez Garage may be available to public hearing attendees when the parking ticket is presented to LDH staff at the hearing.

Rebekah E. Gee MD, MPH
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Hospital Licensing Standards

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

It is anticipated that implementation of this proposed rule will have no programmatic fiscal impact to the state other than the cost of promulgation for FY 18-19. It is anticipated that \$1,944 will be expended in FY 18-19 for the state's administrative expense for promulgation of this proposed rule and the final rule.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

It is anticipated that the implementation of this proposed rule will not affect federal revenue collections since the licensing fees, in the same amounts, will continue to be collected.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

This proposed Rule amends the provisions governing the licensing of hospitals in order to clarify the requirements that

licensed hospitals shall: 1) be primarily engaged in providing inpatient care and services to inpatients, and 2) ensure that dietary services provided through a contract with a food delivery service meet the same standards as hospitals that provide in-house dietary services to patients. The proposed rule may impact hospitals that may have to make adjustments in order to comply with these licensing requirements and/or ensure continued access to inpatient care. It is anticipated that the implementation of this proposed rule will not result in economic costs to hospital providers for FY 18-19, FY 19-20 and FY 20-21, but will be beneficial by providing accurate, clearly identified licensing requirements.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This rule has no known effect on competition and employment.

Cecile Castello
Health Standards Section Director
1904#069

John D. Carpenter
Legislative Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

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 proposes to amend 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 proposed Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

The Department of Health, Bureau of Health Services Financing established provisions in the Pharmacy Benefits Management Program governing the Medicaid Program's participation in The Optimal PDL Solution (TOP\$) State Supplemental Rebate Agreement Program (Louisiana Register, Volume 43, Number 5). The department now proposes to amend the provisions governing the State Supplemental Rebate Agreement Program in order to remove the requirement for participation in a specific supplemental rebate agreement.

Title 50

PUBLIC HEALTH-MEDICAL ASSISTANCE

Part XXIX. Pharmacy

Chapter 11. State Supplemental Rebate Agreement Program

§1101. General Provisions

A. The Centers for Medicare and Medicaid Services approved LDH to enter into state supplemental rebate agreements with pharmaceutical manufacturer(s). LDH may enter into an agreement with a pharmaceutical manufacturer to obtain a rebate(s) in addition to federal rebates pursuant to 42 U.S.C. 1396r. Participation by a pharmaceutical manufacturer in a state supplemental rebate agreement with the department is voluntary.

B. 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, Bureau of Health Services Financing, LR 43:966 (May 2017), amended LR 45:

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

Family Impact Statement

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed Rule on the family has been considered. It is anticipated that this proposed Rule will have no impact on family functioning, stability and autonomy as described in R.S. 49:972.

Poverty Impact Statement

In compliance with Act 854 of the 2012 Regular Session of the Louisiana Legislature, the poverty impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will have no impact on child, individual, or family poverty in relation to individual or community asset development as described in R.S. 49:973.

Provider Impact Statement

In compliance with House Concurrent Resolution (HCR) 170 of the 2014 Regular Session of the Louisiana Legislature, the provider impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will have no impact on the staffing level requirements or qualifications required to provide the same level of service, no direct or indirect cost to the provider to provide the same level of service, and will have no impact on the provider's ability to provide the same level of service as described in HCR 170.

Public Comments

Interested persons may submit written comments to Jen Steele, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821—9030. Ms. Steele is responsible for responding to inquiries regarding this proposed Rule. The deadline for submitting written comments is at close of business, 4:30 p.m., on May 30, 2019.

Public Hearing

Interested persons may submit a written request to conduct a public hearing by U.S. mail to the Office of the Secretary ATTN: LDH Rulemaking Coordinator, Post Office Box 629, Baton Rouge, LA 70821-0629; however, such request must be received no later than 4:30 p.m. on May 10, 2019. If the criteria set forth in R.S. 49:953(A)(2)(a) are satisfied, LDH will conduct a public hearing at 9:30 a.m. on May 30, 2019 in Room 118 of the Bienville Building, which is located at 628 North Fourth Street, Baton Rouge, LA. To confirm whether or not a public hearing will be held, interested persons should first call Stanley Bordelon at (225) 219-3454 after May 10, 2019. If a public hearing is to be held, all interested persons are invited to attend and present data, views, comments, or arguments, orally or in writing. In the event of a hearing, parking is available to the public in the Galvez Parking Garage which is located between North Sixth and North Fifth/North and Main Streets (cater-corner from the Bienville Building). Validated parking for the Galvez Garage may be available to public hearing attendees

when the parking ticket is presented to LDH staff at the hearing.

Rebekah E. Gee MD, MPH
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Pharmacy Benefits Management Program—State Supplemental Rebate Agreement Program

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

It is anticipated that implementation of this proposed rule will have no programmatic fiscal impact to the state other than the cost of promulgation for FY 18-19. It is anticipated that \$432 (\$216 SGF and \$216 FED) will be expended in FY 18-19 for the state's administrative expense for promulgation of this proposed rule and the final rule.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

It is anticipated that the implementation of this proposed rule will have no effect on revenue collections other than the federal share of the promulgation costs for FY 18-19. It is anticipated that \$216 will be collected in FY 18-19 for the federal share of the expense for promulgation of this proposed rule and the final rule. This technical change allows the Department the flexibility within the Medicaid pharmacy program to negotiate various rebate agreements that may impact rebate revenues.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

This proposed rule amends the provisions governing the Pharmacy Benefits Management Program in order to remove the requirement for participation in The Optimal PDL Solution (TOPS) State Supplemental Rebate Agreement Program and allow for non-specific state supplemental rebate agreements. It is anticipated that implementation of this proposed rule will not result in programmatic costs or benefits to pharmacy providers in FY 18-19, FY 19-20 and FY 20-21.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This rule has no known effect on competition and employment.

Jen Steele
Medicaid Director
1904#070

John D. Carpenter
Legislative Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

Department of Insurance Office of the Commissioner

Regulation 100—Coverage of Prescription Drugs
through a Drug Formulary (LAC 37:XIII.Chapter 14)

The Department of Insurance, pursuant to the authority of the Louisiana Insurance Code, R.S. 22:1 et seq., and in accordance with the Administrative Procedure Act, R.S. 49:950 et seq., hereby gives notice of its intent to amend Regulation 100 to provide clarification in regards to the requirement of obtaining approval from the commissioner

whenever a health insurance issuer implements a modification affecting drug coverage in accordance with Act No. 316 in the 2012 Regular Session.

**Title 37
INSURANCE**

Part XIII. Regulations

Chapter 41. Regulation 100—Coverage of Prescription Drugs through a Drug Formulary

§14101. Purpose

A.

B. The purpose of the amendment to Regulation 100 is to provide clarification set forth in R.S. 22:1068(F) and R.S. 22:1074(F) in regards to the requirement of obtaining approval from the commissioner whenever a health insurance issuer modifies health insurance coverage offered in the group and individual markets.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11, R.S. 1068(F) and R.S. 22:1074 (F).

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 38:1028 (April 2012), amended LR 45:

§14111. Requirements for the Modification Affecting Drug Coverage

A. - A5. ...

B. A health insurance issuer shall notify the commissioner in writing of a modification affecting drug coverage 120 days prior to the renewal date of the policy form as to those modifications enumerated in R.S. 22:1061(5) and set forth in §14111.A herein. A health insurance issuer shall provide the notice of modification affecting drug coverage as provided for in R.S. 22:1068(D)(3) and R.S. 22:1074(D)(3) and shall only modify the policy or contract of insurance at the renewal of the policy or contract of insurance.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11, R.S. 22:1068(F) and R.S. 22:1074(F).

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 38:1028 (April 2012), amended LR 45:

§14115. Requirements for Modifying a Group Insurance Product

A. Pursuant to R.S. 22:1068, a health insurance issuer may modify its drug coverage offered to a group health plan if each of the following conditions is met.

1. The modification occurs at the time of coverage renewal.

2. The modification is approved by the commissioner. However, modification affecting drug coverage as defined in R.S. 22:1061(5)(y) and found in §14111.A. of this regulation shall not require approval by the commissioner.

3. The modification is consistent with state law.

4. The modification is effective on a uniform basis among all small or large employers covered by that group health plan.

5. The health insurance issuer, on the form approved by the Department of Insurance, notifies the small or large employer group and each enrollee therein of the modification no later than the sixtieth day before the date the modification is to become effective.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11, R.S. 22:1068(F) and R.S. 22:1074(F).

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 38:1028 (April 2012), amended LR 45:

§14117. Requirements for Modifying an Individual Insurance Product

A. Pursuant to R.S. 22:1074, a health insurance issuer may modify its drug coverage offered to individuals if each of the following conditions is met.

1. The modification occurs at the time of coverage renewal.

2. The modification is approved by the commissioner. However, modification affecting drug coverage as defined in R.S. 22:1061(5)(y) and found in §14111.A. of this regulation shall not require approval by the commissioner.

3. The modification is consistent with state law.

4. The modification is effective on a uniform basis among all individuals with that policy form.

5. The health insurance issuer, on a form approved by the Department of Insurance, notifies each affected individual of the modification no later than the sixtieth day before the date the modification is to become effective.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11, R.S. 22:1068(F) and R.S. 22:1074(F).

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 38:1028 (April 2012), amended LR 45:

§14119. Modification Affecting Drug Coverage

A. To facilitate the ability of the commissioner to comply with his statutory duty, the commissioner shall have the authority to enter into a contract with any person or entity he deems applicable, relevant and/or appropriate to provide advice and/or make a recommendation to the commissioner.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11, R.S. 22:1068(F) and R.S. 22: 1074(F).

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 38:1028 (April 2012), amended 45:

§141120. Effective Date

A. This regulation shall be effective upon final publication in the *Louisiana Register*.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11, R.S. 22:1068(F) and R.S. 22:1074(F).

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 45:

Family Impact Statement

1. Describe the Effect of the Proposed Regulation on the Stability of the Family. The proposed amended regulation should have no measurable impact upon the stability of the family.

2. Describe the Effect of the Proposed Regulation on the Authority and Rights of Parents Regarding the Education and Supervision of their Children. The proposed amended regulation should have no impact upon the rights and authority of children regarding the education and supervision of their children.

3. Describe the effect of the Proposed Regulation on the Functioning of the Family. The proposed amended regulation should have no direct impact upon the functioning of the family.

4. Describe the Effect of the Proposed Regulation on Family Earnings and Budget. The proposed amended regulation should have no direct impact upon family earnings and budget.

5. Describe the Effect of the Proposed Regulation on the Behavior and Personal Responsibility of Children. The proposed amended regulation should have no impact upon the behavior and personal responsibility of children.

6. Describe the Effect of the Proposed Regulation on the Ability of the Family or a Local Government to Perform the Function as Contained in the Rule. The proposed amended regulation should have no impact upon the ability of the family or a local governmental unit to perform the function as contained in the rule.

Poverty Impact Statement

1. Describe the Effect on Household Income, Assets, and Financial Security. The proposed amended regulation should have no effect on household income assets and financial security.

2. Describe the Effect on Early Childhood Development and Preschool through Postsecondary Education Development. The proposed amended regulation should have no effect on early childhood development and preschool through postsecondary education development.

3. Describe the Effect on Employment and Workforce Development. The proposed amended regulation should have no effect on employment and workforce development.

4. Describe the Effect on Taxes and Tax Credits. The proposed amended regulation should have no effect on taxes and tax credits.

5. Describe the Effect on Child and Dependent Care, Housing, Health Care, Nutrition, Transportation and Utilities Assistance. The proposed amended regulation should have no effect on child and dependent care, housing, health care, nutrition, transportation and utilities assistance.

Provider Impact Statement

1. Describe the Effect on the Staffing Level Requirements or Qualifications Required to Provide the Same Level Of Service. The proposed amended regulation will have no effect.

2. The Total Direct and Indirect Effect on the Cost to the Provider to Provide the Same Level of Service. The Proposed Amended Regulation Will Have No Effect.

3. The Overall Effect on the Ability of the Provider to Provide the Same Level of Service. The proposed amended regulation will have no effect.

Public Comments

All interested persons are invited to submit written comments on the proposed regulation. Such comments must be received no later than March 19, 2019 by close of business or by 4:30 p.m. and should be addressed to Claire Lemoine, Louisiana Department of Insurance, and may be mailed to P.O. Box 94214, Baton Rouge, LA 70804-9214, faxed to (225) 342-1632. If comments are to be shipped or hand-delivered, please deliver to Poydras Building, 1702 North Third Street, Baton Rouge, LA 70802.

James J. Donelon
Commissioner

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Regulation 100—Coverage of Prescription Drugs through a Drug Formulary

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed rule changes will not result in additional costs or savings for state or local governmental units. The proposed rules incorporate and reference the current editions of handbooks, guidelines, forms, and instructions adopted by the National Association of Insurance Commissioners (NAIC) and referenced in the Louisiana Insurance Code. The current editions of these publications serve as the most current professional guidance for entities regulated by the LA Dept. of Insurance.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rule change will not affect revenue collections for state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The proposed rule change will not result in any costs and/or economic benefits to health insurers. The purpose of this amendment is to align the administrative rules with Act 316 of the 2012 Regular Session, regarding the coverage of prescription drugs through a drug formulary. Act 316 removes the requirement of health insurers to obtain approval from the Commissioner when implementing modifications to health insurance plans affecting drug coverage.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule change will not affect competition or employment.

Nicholas Lorusso
Chief Deputy Commissioner
1903#003

Evan Brasseaux
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Insurance Office of the Commissioner

Regulation 113—Registration of Catastrophe Claims
Adjusters (LAC 37:XIII.Chapter 163)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, and through the authority granted under R.S. 22:11 et seq., the Department of Insurance hereby gives notice of its intent to promulgate Regulation 113 to establish the procedure to register claims adjusters in the event of a catastrophe or an emergency.

Title 37

INSURANCE

Part XIII. Regulations

Chapter 163. Regulation Number 113—Registration of Catastrophe Claims Adjusters

§16301. Purpose

A. The purpose of this regulation is:

1. To establish the procedure to register claims adjusters in the event of a catastrophe or an emergency pursuant to R.S. 22:1667 and 22:1678.

2. To set forth the time periods for expiration or extension of catastrophe or emergency adjuster registration and to set forth penalties pursuant to R.S. 22:1672.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11, 22:1667, 22:1672 and 22:1678 and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 45:

§16303. Applicability and Scope

A. Regulation 113 shall apply to all adjusters employed or retained by an insurer and brought into the state for the purpose of investigating or making adjustment of losses resulting from a catastrophe or an emergency.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11, 22:1667 and 22:1678 and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 45:

§16305. Authority

A. Regulation 113 is promulgated by the commissioner pursuant to the authority granted under the Louisiana Insurance Code, R.S. 22:11, 22:821, 22:1667, 22:1672 and 22:1678 and the Administrative Procedure Act, R.S. 49:950 et seq.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11, 22:821, 22:1667, 22:1672 and 22:1678 and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 45:

§16307. Definitions

A. For the purposes of Regulation 113 the following terms are defined as follows:

Commissioner—the Commissioner of Insurance of the State of Louisiana.

Adjuster—an individual who investigates or adjusts losses on behalf of an insurer as an independent contractor or as an employee of:

- a. an adjustment bureau;
- b. an association;
- c. a property and casualty producer;
- d. an independent contractor;
- e. an insurer; or
- f. a managing general agent.

Catastrophe Adjuster—those adjusters employed or retained by an insurer and brought into this state for the purpose of investigating or making adjustments of losses resulting from a catastrophe or an emergency.

Catastrophe/Emergency—a significant event declared by the governor or determined by the commissioner that causes widespread property damage or loss.

Insurer—any type of insurer, whether authorized or unauthorized, conducting business in this state.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11, 22:1667, and 22:1678 and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 45:

§16309. Designation of a Catastrophe/Emergency

A. Insurers shall be authorized to utilize catastrophe adjusters in the event of emergencies declared by the governor of this state pursuant to R.S. 29:724 and for any other event which the commissioner has determined to have caused widespread property damage or loss.

B. If not otherwise declared by the governor or determined by the commissioner, an insurer may request that the commissioner authorize the use of catastrophe adjusters by making a written request to the commissioner.

C. The written request shall include the date, geographic area within the state and a description of the event along with any factors which the insurer believes justifies such a declaration.

D. Upon approval of the catastrophe/emergency by the commissioner, the event shall be entered in the Louisiana Department of Insurance on-line system for registration of catastrophe adjusters.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11, 22:1667, and 22:1678 and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 45:

§16311. Registration Procedure

A. No license shall be required for an individual who is employed or retained for a particular event by an insurer and brought into this state specifically for the purpose of investigating or making adjustments of losses resulting from a catastrophe or an emergency.

B. Prior to utilizing the services of a catastrophe adjuster, insurers shall register the individual as follows:

1. Access the department's online system for catastrophe adjuster registration;
2. Provide the following information:
 - a. the specific catastrophe/emergency for which the registration is active;
 - b. full name of the individual catastrophe adjuster;
 - c. Social Security Number or National Producer Number of the individual catastrophe adjuster;
 - d. the name, mailing address, email address and phone number of the individual with the insurer responsible for the registration of catastrophe adjusters; and
 - e. any additional information deemed necessary by the commissioner.
3. Submit the required fee to the commissioner pursuant to R.S. 22:821 within 10 days of the submission of the registration.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11, 22:821, 22:1667, and 22:1678 and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 45:

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 45:

§16313. Registration Expiration and Extension

A. A catastrophe adjuster registration is effective upon submission provided fees are received within ten days. A registration shall be valid for a period not to exceed 180 days.

B. The commissioner may extend the registration's effective period for an additional ninety days upon the receipt of the insurer's written request for such an extension. The request must be submitted no later than 15 days prior to the expiration of the registration. The commissioner shall provide his written approval or denial of an extension request.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11, 22:821, 22:1667 and 22:1678 and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 45:

§16315. Violations and Penalties

A. The commissioner may, without notice and hearing, revoke the privileges of an individual registered as a catastrophe adjuster for the grounds specified in R.S. 22:1672.

B. Any notice of revocation shall be sent to the employing or retaining insurer. The notice shall be sent to

the insurer in accordance with R.S. 49:961. The revocation shall be effective as of the date of the notice of revocation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11, 22:1667, 22:1672 and 22:1678 and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 45:

§16317. Effective Date

A. Regulation 113 shall become effective upon final publication in the *Louisiana Register* and shall apply to any act or practice committed on or after the effective date.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11, 22:1667 and 22:1678 and the Administrative Procedure Act, R.S. 49:950 et seq.

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

§16319. Severability

A. If any section or provision of Regulation 113 or the application to any individual or circumstance is held invalid, such invalidity or determination shall not affect other sections or provisions or the application of Regulation 113 to any individuals or circumstances that can be given effect without the invalid section or provision or application, and for these purposes the sections and provisions of Regulation 113 and the application to any individuals or circumstances are severable.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11, 22:1667 and 22:1678 and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 45:

Family Impact Statement

1. Describe the effect of the proposed regulation on the stability of the family. The proposed regulation should have no measurable impact upon the stability of the family.

2. Describe the effect of the proposed regulation on the authority and rights of parents regarding the education and supervision of their children. The proposed regulation should have no impact upon the rights and authority of children regarding the education and supervision of their children.

3. Describe the effect of the proposed regulation on the functioning of the family. The proposed regulation should have no direct impact upon the functioning of the family.

4. Describe the effect of the proposed regulation on family earnings and budget. The proposed regulation should have no direct impact upon family earnings and budget.

5. Describe the effect of the proposed regulation on the behavior and personal responsibility of children. The proposed regulation should have no impact upon the behavior and personal responsibility of children.

6. Describe the effect of the proposed regulation on the ability of the family or a local government to perform the function as contained in the rule. The proposed regulation should have no impact upon the ability of the family or a local governmental unit to perform the function as contained in the rule.

Poverty Impact Statement

1. Describe the effect on household income, assets, and financial security. The proposed regulation should have no effect on household income assets and financial security.

2. Describe the effect on early childhood development and preschool through postsecondary education development. The proposed regulation should have no effect on early childhood development and preschool through postsecondary education development.

3. Describe the effect on employment and workforce development. The proposed regulation should have no effect on employment and workforce development.

4. Describe the effect on taxes and tax credits. The proposed regulation should have no effect on taxes and tax credits.

5. Describe the effect on child and dependent care, housing, health care, nutrition, transportation and utilities assistance. The proposed regulation should have no effect on child and dependent care, housing, health care, nutrition, transportation and utilities assistance.

Provider Impact Statement

1. Describe the effect on the staffing level requirements or qualifications required to provide the same level of service. The proposed regulation will have no effect.

2. The total direct and indirect effect on the cost to the provider to provide the same level of service. The proposed regulation will have no effect.

3. The overall effect on the ability of the provider to provide the same level of service. The proposed regulation will have no effect.

Small Business Analysis

The impact of the proposed regulation on small businesses as defined in the Regulatory Flexibility Act has been considered. It is estimated that the proposed action is not expected to have a significant adverse impact on small businesses. The agency, consistent with health, safety, environmental and economic welfare factors has considered and, where possible, utilized regulatory methods in the drafting of the proposed regulation that will accomplish the objectives of applicable statutes while minimizing the adverse impact of the proposed regulation on small businesses.

1. Identification and estimate of the number of the small businesses subject to the proposed rule. The proposed regulation should have no measurable impact upon small businesses.

2. The projected reporting, record keeping, and other administrative costs required for compliance with the proposed rule, including the type of professional skills necessary for preparation of the report or record. The proposed regulation should have no measurable impact upon small businesses.

3. A statement of the probable effect on impacted small businesses. The proposed regulation should have no measurable impact upon small businesses.

4. Describe any less intrusive or less costly alternative methods of achieving the purpose of the proposed rule. The proposed regulation should have no measurable impact on small businesses; therefore, will have no less intrusive or less cost alternative methods.

Public Comments

All interested persons are invited to submit written comments on the proposed regulation. Such comments must be received no later than May 22, 2019, by close of business or by 4:30 p.m. and should be addressed to Zata Ard,

Louisiana Department of Insurance, and may be mailed to P.O. Box 94214, Baton Rouge, LA 70804-9214, or faxed to (225) 342-1632. If comments are to be shipped or hand-delivered, please deliver to Poydras Building, 1702 North Third Street, Baton Rouge, LA 70802.

James J. Donelon
Commissioner

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Regulation 113—Registration of
Catastrophe Claims Adjusters**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed rules will not result in additional costs or savings for state or local governmental units. The proposed rules align the administrative rules with statute and codify the procedure to register catastrophe claims adjusters, time periods for expiration or extension of catastrophe claims adjusters' ability to operate, and to set forth penalties pursuant to R.S. 22:1672. Act 783 of 2006 initially authorized insurers to utilize catastrophe adjusters in the event of emergencies declared by the governor of Louisiana or for any other event that the Commissioner of Insurance has determined to have caused widespread property damage or loss, and further required the registration of catastrophe adjusters, including registration fees.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rules are not anticipated to affect revenue collections for state or local governmental units. While the proposed rules include language allowing for the collection of fees when registering catastrophe adjusters, the LA Dept. of Insurance presently collects a \$25 fee associated with registering catastrophe adjusters pursuant to LA R.S. 22:821.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The proposed rules will benefit insurers by codifying the registration process for catastrophe adjusters, including how catastrophe or emergency adjusters may be utilized by insurers in the event of emergencies declared by the governor of Louisiana or for any other event that the Commissioner of Insurance has determined to have caused widespread property damage or loss. The proposed rules align with present practice and statute. Included in the proposed rules is a process to allow insurers to request that the commissioner authorize the use of catastrophe adjusters by making a written request to the commissioner. Furthermore, the proposed rules limit catastrophe adjusters' timeframe to operate to 180 days with up to one 90-day extension upon request.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rules will not affect competition or employment.

Lance Harris
Assistant Commissioner
1904#047

Evan Brasseaux
Staff Director
Legislative Fiscal Office

**NOTICE OF INTENT
Department of Revenue
Policy Services Division**

Mandatory Electronic Filing of Tobacco Tax Returns and
Payment of Tax
(LAC 61.III.1533 and 1534)

Under the authority of R.S. 13:5077, 47:1511, 47:1519, and 47:1520, and in accordance with the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Revenue, Policy Services Division, gives notice that rulemaking procedures have been initiated to adopt LAC 61.III.1533 and 1534, to provide mandatory electronic filing and payment requirements for the Tobacco Tax Return and reports.

R.S. 47:1519(B)(1) authorizes the secretary to require payments by electronic funds transfer, and R.S. 47:1520(A)(2) authorizes the secretary the discretion to require electronic filing of tax returns or reports by administrative rule promulgated with legislative oversight in accordance with the Administrative Procedure Act, R.S. 49:950 et seq. The purpose of this regulation is to mandate electronic filing of all Tobacco Tax Returns and reports and electronic payment of all tobacco tax.

Title 61

REVENUE AND TAXATION

**Part III. Administrative and Miscellaneous Provisions
Chapter 15. Mandatory Electronic Filing of Tax
Returns and Payment**

§1533. Tobacco Tax—Electronic Filing Requirements

A. For tax periods beginning on or after October 1, 2019, every dealer that files a Louisiana Tobacco Tax Return shall be required to file the return and all reports electronically with the Department of Revenue using the electronic format prescribed by the department.

B. Dealers may not send paper versions of any returns or reports required to be filed.

C.1. Failure to comply with the electronic filing requirement of this section will result in the assessment of a penalty as provided for in R.S. 47:1520(B).

2. Waiver of the penalty provided for in paragraph 1 of this subsection shall only be allowed as provided for in R.S. 47:1520(B).

AUTHORITY NOTE: Promulgated in accordance with R.S. 13:5077, 47:1511, and 47:1520.

HISTORICAL NOTE: Promulgated by the Department of Revenue, Policy Services Division, LR

§1534. Tobacco Tax—Electronic Payment Required

A. R.S. 47:1519(B)(1) allows the secretary to require payment of tobacco tax by electronic funds transfer.

B. Effective for all taxable periods beginning on or after October 1, 2019, all payments by a tobacco dealer shall be electronically transferred to the Department of Revenue on or before the twentieth day following the close of the

reporting period using the electronic format provided by the department.

C. For the purposes of this Rule, specific requirements relating to the procedures for making payments by electronic funds transfer are set forth in R.S. 47:1519 and LAC 61.I.4910.

D. Failure to comply with the electronic funds transfer requirements shall result in the tax payment being considered delinquent and subject to penalties and interest as provided under R.S. 47:1601 through 1602.

E. If a taxpayer has made a good faith attempt and exercises due diligence in initiating a payment under the provisions of R.S. 47:1519, this Rule, and LAC 61.I.4910, but because of unexpected problems arising at financial institutions, Federal Reserve facilities, the automated clearinghouse system, or state agencies, the payment is not timely received, the delinquent penalty may be waived as provided by R.S. 47:1603. Before a waiver will be considered, taxpayers must furnish the department with documentation proving that due diligence was exercised and that the delay was clearly beyond their control.

F. In any case where the taxpayer can prove payment by electronic funds transfer would create an undue hardship, the secretary shall exempt the taxpayer from the requirement to transmit funds electronically.

G. The tax returns and reports must be filed electronically separately from the electronic transmission of the remittance. Specific requirements relating to the mandatory electronic filing of the return or report required by the Department of Revenue are set forth in LAC 61.III.1533.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1511 and 47:1519.

HISTORICAL NOTE: Promulgated by the Department of Revenue, Policy Services Division, LR

Family Impact Statement

The proposed adoption of this rule should have no known or foreseeable impact on any family as defined by R.S. 49:972(D) or on family formation, stability and autonomy. Specifically, the implementation of this proposed rule has no known or foreseeable effect on:

1. The stability of the family.
2. The authority and rights of parents regarding the education and supervision of their children.
3. The functioning of the family.
4. Family earnings and family budget.
5. The behavior and personal responsibility of children.
6. The ability of the family or a local government to perform this function.

Poverty Impact Statement

The proposed rule has no known impact on poverty as described in R.S. 49:973.

Small Business Impact Statement

The proposed rule has no known measurable impact on small businesses as described in R.S. 49:965.6.

Provider Impact Statement

The proposed rule has 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

All interested persons may submit written data, views, arguments or comments regarding this proposed rule to Brandea Averett, Attorney, Policy Services Division, Office of Legal Affairs, P.O. Box 44098, Baton Rouge, LA 70804-4098. Written comments will be accepted until 4:30 p.m., May 29, 2019.

Public Hearing

A public hearing will be held on May 30, 2019 at 9:30 a.m. in the LaBelle Room, located on the 1st floor of the LaSalle Building, 617 North Third Street, Baton Rouge, LA.

Kimberly Lewis Robinson
Secretary of Revenue

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Mandatory Electronic Filing of Tobacco Tax Returns and Payment of Tax

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

This proposal adopts rules that require electronic filing of the Tobacco Tax returns and reports and electronic funds transfer of all Tobacco Tax payments. This proposal also provides for the assessment and waiver of penalties for non-compliance.

Implementation of this proposal will not result in material additional costs or cost savings to governmental units. LDR is implementing electronic filing of Tobacco Tax returns and reports through LDR's LaTAP as an ongoing enhancement of its collection efforts. Accounting for non-compliance penalties will not result in material additional costs.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

This proposal may increase revenues from penalties by an indeterminable amount. A modest and temporary increase in revenue from penalties is possible as the proposed rule is implemented, although LDR cannot predict non-compliant behavior. For informational purposes, on returns that are currently required to be filed electronically, LDR collected approximately \$20,000 in FY16, \$7,000 in FY17 and \$1,000 in FY18.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

LDR does not have the information necessary to determine the additional costs to comply with this change, but these costs are expected to be minimal, as online access and activity has largely become a business standard.

A total of less than 200 taxpayers statewide are affected by this proposed rule, and the majority of these taxpayers already remit the tax by electronic funds transfer. To the extent non-compliance penalties are collected, affected taxpayers will incur penalty costs. LDR cannot estimate the additional penalty amount.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This proposal is not expected to have any significant effect on competition or employment.

Kimberly Lewis Robinson
Secretary
1904#041

Greg Albrecht
Chief Economist
Legislative Fiscal Office

NOTICE OF INTENT

Department of Treasury Board of Trustees of the Louisiana State Employees' Retirement System

Actuarial Equivalent and Ballots, Count, Tabulation,
Posting, Oath of Office (LAC 58:XVII.103, 303)

In accordance with R.S. 49:950 et seq., the Administrative Procedures Act, notice is hereby given that the Board of Trustees for the Louisiana Registrars of Voters Employees' Retirement System has approved for advertisement of these rules for the issuance of ballots to employees enrolled in the system and for the determination of the actuarial equivalent under R.S. 11:2031(2). The proposed Rules are being adopted pursuant to R.S. 49:950 et seq. which provides this agency the authority to promulgate rules that facilitate the proper functioning of this system. A preamble to this proposed action has not been prepared.

Title 58

RETIREMENT

Part XVII. Registrars of Voters Employees' Retirement System

Chapter 1. Procedures for Election of Registrars of Voters Employees' Retirement System Trustees

§103. Ballots, Count, Tabulation, Posting, Oath of Office

A. The director shall compile a ballot for each office to be filled. Ballots shall be mailed to the membership at their home address beginning the first Tuesday through the second Friday of September. The ballots shall be issued to members who were active employees as of June 30 of that year. In addition, the director shall issue a ballot to any active employee who is hired and enrolled in ROVERS after June 30 and prior to the first Tuesday of September if that employee makes a request in writing to the director. The member must be an active employee as of the date the system counts the ballot in order for that member's ballot to be counted. In addition to the ballot the director shall mail an affidavit as specified by the board of trustees, a return envelope and instructions. The director shall inform each member in this mailing that results of the vote shall be promulgated on the system's website prior to January. Voted ballots shall be accepted through the first Friday in October at 4:30 p.m. A date and time shall be placed on each ballot envelope received by the director across the envelope flap.

B. Ballots shall be held inviolate by the director. The chairman of the board shall call a special meeting to count and tabulate ballots between the first day of November and the last day of December. At this special meeting the board of trustees shall promulgate the returns and announce the results.

1. ...

2. The director shall issue to the elected trustee an oath of office. The trustee shall take the oath at the next board meeting and file a copy with their respective clerk of court. A copy of said oath shall be forwarded to the director. The oath shall contain a term of office effective January 1st of the year that the trustee takes office.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:2091(B) and (C) et seq.

HISTORICAL NOTE: Promulgated by the Department of Treasury, Registrars of Voters Employees' Retirement System, LR 38:1029 (April 2012), LR 45:000 (April 2019).

Chapter 3. Final Average Compensation §303. Actuarial Equivalent

A. As provided under R.S. 11:2031(2), actuarial equivalent shall be defined using the following assumptions.

1. Interest shall be compounded annually at the rate of 7.50 percent per annum.

2. Annuity rates shall be determined on the basis of RP-2000 Combined Healthy table set back three years for males and two years for females.

B. Effective July 1, 2016, as provided by R.S. 11:2031(2) actuarial equivalent shall be defined by using the following assumptions.

1. Interest shall be compounded annually at the rate of 7.00 percent per annum (except as provided below).

2. For Single Life option factors, mortality rates shall be based on the RP-2000 Combined Healthy tables set forward 1 year for males and unadjusted for females, unisex based on 15 percent males and 85 percent females.

3. For Joint Life option factors, mortality rates shall be based on the RP-2000 Combined Healthy tables set forward 1 year for males and unadjusted for females, unisex based on 15 percent males and 85 percent females for retirees and 85 percent males and 15 percent females for beneficiaries.

4. For disability award lifetime equivalences, mortality rates shall be based on the RP-2000 Disabled Lives tables unisex based on 15 percent males and 85 percent females.

5. For DROP Account Balance lifetime annuity conversions, mortality rates shall be based on the RP-2000 Healthy Annuitant Tables set forward 1 year for males and unadjusted for females and projected with mortality improvement to 2030 using Scale AA, unisex based on 15 percent males and 85 percent females with interest at 6 percent per annum.

C. Effective July 1, 2018, as provided by R.S. 11:2031(2) actuarial equivalent shall be defined by using the following assumptions.

1. Interest shall be compounded annually at the rate of 6.75 percent per annum (except as provided below).

2. For Single Life option factors, mortality rates shall be based on the RP-2000 Combined Healthy tables set forward 1 year for males and unadjusted for females, unisex based on 15 percent males and 85 percent females.

3. For Joint Life option factors, mortality rates shall be based on the RP-2000 Combined Healthy tables set forward 1 year for males and unadjusted for females, unisex based on 15 percent males and 85 percent females for retirees and 85 percent males and 15 percent females for beneficiaries.

4. For disability award lifetime equivalences, mortality rates shall be based on the RP-2000 disabled lives tables unisex based on 15 percent males and 85 percent females.

5. For DROP Account Balance lifetime annuity conversions, mortality rates shall be based on the RP-2000 Healthy Annuitant Tables set forward 1 year for males and

unadjusted for females and projected with mortality improvement to 2030 using Scale AA, unisexed based on 15 percent males and 85 percent females with interest at 5.75 percent per annum.

D. Effective July 1, 2019, as provided by R.S. 11:2031(2) actuarial equivalent shall be defined by using the following assumptions.

1. Interest shall be compounded annually at the rate of 6.50 percent per annum (except as provided below).

2. For Single Life option factors, mortality rates shall be based on the RP-2000 Combined Healthy tables set forward 1 year for males and unadjusted for females, unisexed based on 15 percent males and 85 percent females.

3. For Joint Life option factors, mortality rates shall be based on the RP-2000 Combined Healthy tables set forward 1 year for males and unadjusted for females, unisexed based on 15 percent males and 85 percent females for retirees and 85 percent males and 15 percent females for beneficiaries.

4. For disability award lifetime equivalences, mortality rates shall be based on the RP-2000 disabled lives tables unisexed based on 15 percent males and 85 percent females.

5. For DROP Account Balance lifetime annuity conversions, mortality rates shall be based on the RP-2000 Healthy Annuitant Tables set forward 1 year for males and unadjusted for females and projected with mortality improvement to 2030 using Scale AA, unisexed based on 15 percent males and 85 percent females with interest at 5.5 percent per annum.

E. Thereafter, these assumptions shall be adopted by resolution of the board, based on recommendations of its actuary.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:2031(2).

HISTORICAL NOTE: Promulgated by the Department of Treasury, Registrars of Voters Employees' Retirement System, LR 45:000 (April 2019).

Family Impact Statement

The proposed Rule for the determination of the of the actuarial equivalent under R.S. 11:2031(2) and for extending ballots to more active employees of the Louisiana Registrars of Voters Employees' Retirement System should not have any known or foreseeable impact on any family as defined by R.S. 49:972 or on family formation, stability and autonomy. Specifically, there should be no known or foreseeable effect on:

1. the stability of the family;
2. the authority and rights of parents regarding the education and supervision of their children;
3. the functioning of the family;
4. family earnings and family budget;
5. the behavior and personal responsibility of children; or
6. the ability of the family or a local government to perform the function as contained in the proposed rules.

Poverty Impact Statement

In compliance with Act 854 of the 2012 Regular Session of the Louisiana Legislature, the poverty impact of the proposed rules 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 La. R.S. 49:973. Specifically, there should be no known or foreseeable effect on:

1. household income, assets, and financial security;
2. early childhood development and preschool through postsecondary education development;
3. employment and workforce development;
4. taxes and tax credits; or
5. child and dependent care, housing, health care, nutrition, transportation, and utilities assistance.

Provider Impact Statement

In compliance with House Concurrent Resolution (HCR) 170 of the 2014 Regular Session of the Louisiana Legislature, the provider impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will have no impact on the staffing level requirements or qualifications required to provide the same level of service, no direct or indirect cost to the provider to provide the same level of service, and will have no impact on the provider's ability to provide the same level of service as described in HCR 170.

Public Comments

Any interested person may submit written data, views, arguments or comments regarding these proposed rules to Kathy Bourque, Director of Louisiana Registrars of Voters Employees Retirement System, P.O. Box 1959, Gonzales, LA 70707. All comments must be received no later than July 20, 2019.

Kathy Bourque
Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Actuarial Equivalent and Ballots, Count, Tabulation, Posting, Oath of Office

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There will be no implementation costs to state or local government units as a result of this proposed rule change. The rule change codifies previous actuarial equivalent changes and election procedures into the rule. The actuarial equivalents include the actuarial rate of return and mortality rates based on different retirement benefit options which have previously been approved by the Board of Trustees. The rule change extends the opportunity to request ballots to more active employees and gives the board more time to coordinate a meeting to count the vote. The cost of sending ballots to an unknown number of additional recipients would be nominal, and can be absorbed within existing budgetary resources.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rule change will 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)

There are no estimated costs and/or economic benefits that should affect any persons or nongovernmental group as a result of the proposed rule change.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT
(Summary)

There is no estimated impact on competition and employment as a result of the proposed rule change.

Kathy Bourque
Director
1904#034

Evan Brasseaux
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Treasury
Board of Trustees of the School
Employees' Retirement System**

Participation in Group Trusts (LAC 58:VII.409)

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and through the authority granted in R.S. 11:1165 and R.S. 11:1165.1, the Board of Trustees of the School Employees' Retirement System proposes to adopt new Section 409, titled "Participation in Group Trusts," to immediately follow LAC 58:VII.407, to allow the retirement system to participate in group trust investments without affecting its tax qualified status.

Title 58

RETIREMENT

Part VII. School Employees' Retirement System

Chapter 4. Internal Revenue Code Provisions

§409. Participation in Group Trusts

A. To the extent it does not affect the tax qualified status of the retirement system, and is permitted by United States Internal Revenue Service Revenue Ruling 81-100, 1981-1 CB 326 (as clarified and modified by Revenue Ruling 2004-67, 2004-2 CB 28, and modified by Revenue Ruling 2011-1, 2011-2 IRB 251, or any subsequent guidance), the board of trustees is authorized to:

1. for investment purposes, transfer assets of the retirement system to, and pool such assets in, one or more group trust(s); and
2. adopt one or more group trust(s), and/or the terms of such group trust(s), as part of the retirement system to the extent necessary to meet the requirements of applicable law, by executing appropriate participation and/or adoption agreements with the trustee(s) of the group trust(s).

B. For purposes of transferring assets of the retirement system to a trustee(s) of any current or future group trust(s), by the execution of such group trust's participation agreement(s), the board of trustees specifically adopts the trustee's declaration of the group trust as part the retirement system to the extent of its interest in the group trust, or as is required by applicable law, for the purposes of such investment and compliance with Revenue Ruling 81-100, 1981-1 CB 326 (as clarified and modified by Revenue Ruling 2004-67, 2004-2 CB 28, and modified by Revenue Ruling 2011-1, 2011-2 IRB 251, or any subsequent guidance).

C. For purposes of valuation, the value of the interest maintained by the retirement system in a group trust shall be

determined in accordance with the governing instrument of the group trust to determine the fair market value of the portion of the group trust held for the retirement system, determined in accordance with generally recognized valuation procedures.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:1165 and R.S. 11:1165.1.

HISTORICAL NOTE: Promulgated by the Board of Trustees of the School Employees' Retirement System, LR 45:

Family Impact Statement

The proposed rulemaking 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, there should be no known or foreseeable effect on:

1. the stability of the family;
2. the authority and rights of parents regarding the education and supervision of their children;
3. the functioning of the family;
4. family earnings and family budget;
5. the behavior and personal responsibility of children; or
6. the ability of the family or a local government to perform the function as contained in the proposed Rule.

Poverty Statement

The proposed rulemaking will have no impact on poverty as described in R.S. 49:973.

Provider Impact Statement

The proposed rulemaking does 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

Any interested person may submit written comments regarding this proposed Rule to Charles P. Bujol, Executive Director, School Employees' Retirement System, by mail to 8660 United Plaza Blvd., Baton Rouge, LA 70809. All comments must be received no later than 4:30 p.m., May 10, 2019.

Charles P. Bujol
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

RULE TITLE: Participation in Group Trusts

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)
There will be no estimated implementation costs to state or local governmental units.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There will be no estimated effect on revenue collections of state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There will be no estimated costs and/or economic benefits to directly affected persons or nongovernmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will be no estimated effect on competition or employment.

Charles P. Bujol
Executive Director
1904#044

Evan J. Brasseaux
Staff Director
Legislative Fiscal Office

Administrative Code Update

CUMULATIVE: January-March 2019

LAC Title	Part #.Section #	Action	Location:		LAC Title	Part #.Section #	Action	Location:		
			Month	LR 44 Page #				Month	LR 44 Page #	
7	XXI.Chapter 19 XXI.1907,1915,1923,1927,1931	Amended	Jan.	31	43	XIII.503,507 XIII.512 XIX.533	Amended	Jan.	66	
		Repealed	Jan.	31			Adopted	Jan.	66	
10	XVII.503	Adopted	Feb.	247	46	XI.Chapter 1,Chapter 3 XI.139,147,153,155,305 XI.102,301,331,333,335,345 XLVII.1703,1715 XLVII.3405 XLVII.3415 LIII.2901 LX.401,403,405,407,409 LX.303,605 LX.505 LX.705,801,803,901,1703 LXI.105,707,709,1101,2701 LXI.1107 LXI.3107 LXVII.2601,2603,2605,2607,2609 LXVII.Chapter 103, Chapter104 LXIX.Chapter 1,301,501,503,505,701 LXIX.105 LXXV.Chapter 1,301,Chapter 5,701 LXXV.119,135 LXXV.111,113	Adopted	Feb.	236	
13	I.2903,2904,2905,2911,2913 I.2915	Amended	Feb.	218			Adopted	Feb.	236	Repealed
		Adopted	Feb.	218	Amended	Mar.	432	Amended	Mar.	248
22	I.331 XV.Chapter 13, Chapter 15 XV.1308,1318,1360 XV.1321	Amended	Jan.	69	48	I.8801,8803,8805 I.19707	Adopted	Jan.	45	
		Amended	Mar.	403			Amended	Mar.	436	
28	XI.405,409 XI.605 XI.3501,3503 XI.3507 XLV.303,401,743,747 LXXIX.125 LXXIX.1301,2109 LXXIX.1309 CXIII.309,1505 CXV.339,349,2305,2307,2317,2361 CXV.504 CXV.2317 CXV.2901,2903,2905,2909 CXV.Chapter 33 CXXXI.203 CXXXI.203,348,648 CXXXI.203,341,703,705,761,787,1001 CXXXI.240 CXXXI.350,351,713 CXXXI.906 CXXXVII.301 CXXXIX.2903 CXLV.1103,1105 CXLVII.101,307,311,325 CXLIX.101,301,501,701,901,1301,1501, 1701,1901,1903 CXLIX.903,1101,1703,1905,1907,2101 CXLIX.2103,2105,2107 CLVII.303 CLXI.1805,1819 CLXI.1806,1823 CLXXII.Chapter 1	Adopted	Mar.	403	50	I.503 I.1505 II.20013 II.20023 II.20024 III.2329,2523 VII.32915,32969 VII.32969 XI.10703 XI.16703 XXI.13701,13703,13705 XXI.13933 XXI.14301 XXII.6101,6301,6501,6503,6701,6703,6901,6903 XXXIII.14101,14301,14303,14501	Amended	Jan.	75	
		Repealed	Mar.	403			Adopted	Jan.	75	
33	VII.115,713	Repealed	Mar.	403	55	I.1505,1509,1531 III.2101,2103,2105,2107,2109 VII.401 VII.403 XXV.101,103,105,107,109	Adopted	Mar.	419	
		Repealed	Mar.	403			Adopted	Mar.	422	
35	I.1506 V.6336	Repealed	Mar.	396	72	I.105	Adopted	Mar.	422	
		Repealed	Mar.	396			Adopted	Feb.	249	
37	XI.901 XI.2301,2303,2305,2307,2309,2313 XI.2311 XIII.560 XIII.1907 XIII.5501,6101	Repealed	Mar.	396	76	VII.346 VII.367 VII.367 XI.501	Adopted	Mar.	433	
		Repealed	Mar.	396			Adopted	Feb.	249	
43	XIII.Chapter 3 XIII.327	Repealed	Jan.	66	76	VII.346 VII.367 VII.367 XI.501	Adopted	Jan.	433	
		Repealed	Jan.	66			Adopted	Feb.	249	

Potpourri

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Department of Agriculture and Forestry Office of Agricultural and Environmental Sciences

Annual Quarantine Listing 2019 Plant Protection and Quarantine

In accordance with LAC 7:XV.107 and 109, we are hereby publishing the annual quarantine.

1.0 Sweetpotato Weevil (*Cylas formicarius elegantulus* Sum)

(a) In the United States: the states of Alabama, California, Florida, Georgia, Mississippi, North Carolina, South Carolina, Texas and any other state found to have the sweetpotato weevil.

(b) In the State of Louisiana:

1) The entire parishes of: Acadia, Allen, Ascension, Assumption, Avoyelles, Beauregard, Bienville, Bossier, Caddo, Calcasieu, Cameron, DeSoto, East Baton Rouge, East Feliciana, Evangeline, Grant, Iberia, Iberville, Jefferson, Jefferson Davis, Lafayette, Lafourche, Livingston, Natchitoches, Orleans, Plaquemines, Pointe Coupee, Rapides, Red River, Sabine, St. Bernard, St. Charles, St. Helena, St. James, St. John the Baptist, St. Landry, St. Martin, St. Mary, St. Tammany, Tangipahoa, Terrebonne, Vermilion, Vernon, Washington, Webster, West Baton Rouge, West Feliciana.

2.0 Pink Bollworm (*Pectinophora gossypiella* Saunders)

Pink bollworm quarantined areas are divided into generally infested and/or suppressive areas as described by USDA-PPQ.

Arizona

(1) Generally infested area: the entire state.

California

(1) Generally infested area: The entire counties of: Imperial, Inyo, Los Angeles, Orange, Riverside, San Bernardino, and San Diego.

(2) Suppressive area: The entire counties of: Fresno, Kern, Kings, Madera, Merced, San Benito, and Tulare.

New Mexico

(1) Generally infested area: The entire state.

Texas

(1) Generally infested area: The entire state.

3.0 Phytophagous Snails

The states of Arizona and California.

4.0 Sugarcane Pests and Diseases

All states outside of Louisiana.

5.0 Lethal Yellowing

The state of Florida.

6.0 Texas Phoenix Decline

The states of Texas and Florida.

7.0 Tristeza, Xyloporosis, Psorosis, Exocortis.

All citrus growing areas of the United States.

8.0 Burrowing Nematode (*Radopholus similis*)

The States of Florida and Hawaii and the Commonwealth of Puerto Rico.

9.0 Oak Wilt (*Ceratocystis fagacearum*)

Arkansas

Infected counties: Baxter, Benton, Boone, Carroll, Clay, Craighead, Crawford, Franklin, Fulton, Independence, Izard, Johnson, Lawrence, Logan, Madison, Marion, Mississippi, Nevada, Newton, Poinsett, Pope, Randolph, Scott, Searcy, Sharp, Stone, Washington, and Yell.

ILLINOIS

Entire state.

Indiana

Entire state.

Iowa

Entire state.

Kansas

Infected counties: Anderson, Atchison, Cherokee, Doniphan, Douglas, Franklin, Jackson, Jefferson, Johnson, Leavenworth, Linn, Miami, Neosho, Pottawatomie, Shawnee, and Wyandotte.

Kentucky

Infected counties: Adair, Allen, Ballard, Bath, Bell, Boyd, Breathitt, Breckinridge, Bullitt, Butler, Caldwell, Calloway, Carter, Casey, Christian, Clay, Clinton, Cumberland, Daviess, Edmonson, Elliott, Estill, Fleming, Floyd, Graves, Grayson, Green, Greenup, Hancock, Hardin, Harlan, Hart, Henderson,

Hopkins, Jefferson, Johnson, Knott, Knox, Lawrence, Lee, Leslie, Letcher, Lewis, Logan, McCracken, McLean, Magoffin, Marshall, Martin, Menifee, Metcalfe, Montgomery, Morgan, Muhlenberg, Nelson, Ohio, Oldham, Owsley, Perry, Pike, Powell, Pulaski, Rowan, Russell, Taylor, Todd, Trigg, Union, Warren, Wayne, and Webster.

Maryland

Infected Counties: Allegany, Frederick, Garrett, and Washington.

Michigan

Infected counties: Barry, Barrien, Calhoun, Cass, Clare, Clinton, Grand Traverse, Kalamazoo, Kent, Lake, Livingston, Manistee, Missaukee, Muskegon, Oakland, Roscommon, St. Joseph, Van Buren, Washtenaw, Wyne, and Menominee.

Minnesota

Infected counties: Anoka, Aitkin, Blue Earth, Carver, Cass, Chicago, Crow Wing, Dakota, Dodge, Fillmore, Freeborn, Goodhue, Hennepin, Houston, Le Sueur, McLeod, Mille Lacs, Morrison, Mower, Nicollet, Olmsted, Ramsey, Rice, Scott, Sherburne, Sibley, Steele, Wabasha, Waseca, Washington, Winona, and Wright.

Missouri

Entire state.

Nebraska

Infected counties: Cass, Douglas, Nemaha, Otoe, Richardson, and Sarpy.

North Carolina

Infected counties: Buncombe, Burke, Haywood, Jackson, Lenoir, Macon, Madison, and Swain.

OHIO

Entire state.

Oklahoma

Infected counties: Adair, Cherokee, Craig, Delaware, Haskell, Latimer, LeFlore, Mayes, McCurtain, McIntosh, Ottawa, Pittsburg, Rogers, Sequoyah, and Wagoner.

Pennsylvania

Infected counties: Adams, Allegheny, Armstrong, Beaver, Bedford, Blair, Butler, Cambria, Centre, Clarion, Clinton, Cumberland, Erie, Fayette, Franklin, Fulton, Greene, Huntingdon, Indiana, Jefferson, Juniata, Lawrence, Mifflin, Perry, Somerset, Venango, Washington, and Westmoreland.

South Carolina

Infected counties: Chesterfield, Kershaw, Lancaster, Lee, and Richland.

Tennessee

Infected Counties: Blount, Carter, Cocke, Cumberland, Grainger, Greene, Hamblen, Hancock, Hardeman, Hawkins, Jefferson, Knox, Lincoln, Loudon, Montgomery, Rhea, Roane, Robertson, Sevier, Sullivan, Union, Washington, and White.

Texas

Infected counties: Bandera, Bastrop, Bexar, Blanco, Basque, Burnett, Dallas, Erath, Fayette, Gillespie, Hamilton, Kendall, Kerr, Lampasas, Lavaca, McLennan, Midland, Tarrant, Travis, Williamson.

Virginia

Infected counties: Aleghany, Augusta, Bath, Botetoust, Clarke, Frederick, Giles, Highland, Lee, Loudoun, Montgomery, Page, Rockbridge, Rockingham, Scott, Shenandoah, Smyth, Warren, Washington, Wise, and Wythe.

West Virginia

Infected counties: all counties except Tucker and Webster.

Wisconsin

Infected counties: Adams, Brown, Buffalo, Chippewa, Clark, Columbia, Crawford, Dane, Dodge, Dunn, Eau Claire, Fond du Lac, Grant, Green, Green Lake, Iowa, Jackson, Jefferson, Juneau, Kenosha, La Crosse, Lafayette, Lincoln, Marquette, Milwaukee, Monroe, Oconto, Outagamie, Ozaukee, Pepin, Pierce, Polk, Portage, Racine, Richland, Rock, St. Croix, Sauk, Shawano, Trempealeau, Vernon, Walworth, Washington, Waukesha, Waupaca, Waushara, Winnebago, and Wood.

10.0Phony Peach

Alabama

Entire state.

Arkansas

Counties of Arkansas, Ashley, Bradley, Chicot, Columbia, Crittendon, Cross, Desha, Drew, Hempstead, Howard, Jefferson, Lafayette, Lee, Lincoln, Little River, Miller, Monroe, Nevada, Phillips, Pike, Poinsett, St. Francis, Sevier, Union, and Woodruff.

Florida

Entire state.

Georgia

Entire state.

Kentucky

County of McCracken.

Louisiana

Parishes of Bienville, Bossier, Caddo, Claiborne, DeSoto, Jackson, Lincoln, Morehouse, Natchitoches, Ouachita, Red River and Union.

Mississippi

Entire state.

Missouri

County of Dunklin.

North Carolina

Counties of Anson, Cumberland, Gaston, Hoke, Polk and Rutherford.

South Carolina

Counties of Aiken, Allendale, Bamberg, Barnwell, Cherokee, Chesterfield, Edgefield, Greenville, Lancaster, Laurens, Lexington, Marlboro, Orangeburg, Richland, Saluda, Spartanburg, Sumter, and York.

Tennessee

Counties of Chester, Crockett, Dyer, Fayette, Hardman, Hardin, Lake, Lauderdale, McNairy, Madison, and Weakley.

Texas

Counties of Anderson, Bexar, Brazos, Cherokee, Freestone, Limestone, McLennan, Milan, Rusk, San Augustine, Smith, and Upshur.

11.0 Citrus Canker (*Xanthomonas citri* subsp. *citri*)

Louisiana

Infested parishes: Jefferson, Lafourche, Orleans, Plaquemines, St. Bernard, St. Charles, St. James, and St. John.

Any areas designated as quarantined under the Federal Citrus Canker quarantine 7 CFR 301.75 et seq.

12.0Pine Shoot Beetle [*Tomicus piniperda* (L.)]

Any areas designated as quarantined under the Federal Pine Shoot Beetle quarantine 7 CFR 301.50 et seq.

13.0Citrus Greening [*Candidatus Liberibacter asiaticus*]

Louisiana

Infested parishes: Jefferson, Orleans, Plaquemines, St. Bernard and Washington.

Any other areas or states designated as infested under the Federal Citrus Greening and Asian Citrus Psyllid quarantine 7 CFR 301.76 et seq.

14.0Asian Citrus Psyllid [*Diaphorina citri* Kuwayama]

Louisiana

Infested parishes: Jefferson, Orleans, Lafourche, Plaquemines, St. Bernard, St. Charles, St. James, St. Tammany, Tangipahoa and Terrebonne.

Any other areas or states designated as infested under the Federal Citrus Greening and Asian Citrus Psyllid quarantine 7 CFR 301.76 et seq.

15.0Emerald Ash Borer [*Agrilus planipennis*]

Louisiana

Infested parishes: Bienville, Bossier, Caddo, Claiborne, Jackson, Lincoln, Morehouse, Ouachita, Union and Webster.

Any other areas or states designated as infested under the Federal Emerald Ash Borer quarantine 7 CFR 301.53-3 et seq.

16.0 Roseau Cane Scale (*Nipponaclerda biwakoensis*)

Louisiana

Infested parishes: Acadia, Allen, Ascension, Assumption, Beauregard, Calcasieu, Cameron, East Baton Rouge, East Feliciana, Evangeline, Iberia, Iberville, Jefferson, Jefferson Davis, Lafayette, Lafourche, Livingston, Orleans, Plaquemines, Pointe Coupee, St. Bernard, St. Charles, St. Helena, St. James, St. John, St. Landry, St. Martin, St. Mary, St. Tammany, Tangipahoa, Vernon, Washington, and West Feliciana.

17.0 Guava root knot nematode (*Meloidogyne enterolobii*)

The entire states of Florida, North Carolina, and South Carolina.

Mike Strain DVM
Commissioner

1904#030

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Department of Children and Family Services

Louisiana's 2019 Annual Progress and Services Report

The Department of Children and Family Services (DCFS) announces opportunities for public review of the state's 2019 Annual Progress and Services Report (APSR). The APSR is a report on the achievement of goals and objectives and/or outcomes for year three of the 2015-2019 Child and Family Services Plan (CFSP). This plan addresses the use of Title IV-B, Subpart 1 and Subpart 2, Title IV-E Chafee Foster Care Independence Program (CFCIP), Educational and Training Vouchers (ETV), and Child Abuse Prevention and Treatment Act (CAPTA) funds and serves as the applications for additional funds from these federal sources.

Louisiana, through the DCFS, provides services that include child abuse prevention, child protective services, family services-prevention and intervention services, foster care, adoption and the youth transition services. The department will use its allotted funds provided under the Social Security Act, Title IV-B, Subpart 1, entitled the Stephanie Tubbs Jones Child Welfare Services Program, to provide child welfare services to prevent child abuse and neglect, to prevent foster care placement, to reunite families, to arrange adoptions, and to ensure adequate foster care. Title IV-B, Subpart 2, entitled Promoting Safe and Stable Families, funds services to support families and prevent the need for foster care. The CFCIP funds services to assist foster children 15 years of age and older who are likely to remain in foster care until 18 years of age. Former foster care recipients who are 18 years of age who have aged out of foster care, and those who were adopted or entered guardianship at age 16 years of age or older, are also eligible for services. The services include basic living skills training and education and employment opportunities. The CAPTA funding is used to complement and support the overall mission of child welfare with emphasis on developing, strengthening, and carrying out child abuse and neglect prevention and treatment programs and to support Citizen Review Panels statewide.

The DCFS is encouraging public participation in the planning of services and the writing of this document. The

report can be found for review on the internet under <http://www.dss.state.la.us/index.cfm?md=pagebuilder&tmp=home&pid=132> then the 2018 APSR link. Inquiries and comments on the plan may be submitted in writing to the DCFS, Attention: Child Welfare Administrator, P. O. Box 3318, Baton Rouge, LA 70821. The deadline for receipt of written comments is May 2, 2019 at 4 p.m.

All interested persons will have the opportunity to provide comments and/or recommendations on the plan, orally or in writing, at a public hearing scheduled for May 2, 2019 at 10 a.m. in Room 1-129 of the Iberville Building located at 627 North Fourth Street, Baton Rouge. Individuals with disabilities who require special services should contact the DCFS Appeals Unit at least seven working days in advance of the hearing. For assistance, call (225) 342-4120 (Voice and TDD).

Marketa Garner Walters
Secretary

1904#025

POTPOURRI

Department of Children and Family Services

Social Services Block Grant Intended Use Report

The Department of Children and Family Services (DCFS) announces opportunities for public review of the state's pre-expenditure report on intended uses of Social Services Block Grant (SSBG) funds for the state fiscal year (SFY) beginning July 1, 2019, and ending June 30, 2020. The proposed SFY 2018-2019 SSBG intended use report has been developed in compliance with the requirements of Section 2004 of the Social Security Act (SSA), as amended and includes information on the types of activities to be supported and the categories or characteristics of individuals to be served through use of the state's allocation of SSBG funds. Section 2004 of the SSA further requires that the SSBG pre-expenditure report shall be "made public within the state in such manner as to facilitate comment by any person." The DCFS, as the designated state department, will continue to administer programs funded under the SSBG in accordance with applicable statutory requirements and federal regulations. The DCFS, Child Welfare Section (CWS) will be responsible for provision of social services, by direct delivery and vendor purchase, through use of SFY 2019-2020 SSBG expenditures for adoption, child protection, family services, and foster care/residential care services.

Louisiana, through DCFS/CWS, will utilize its allotted funds to provide comprehensive social services on behalf of children and families in fulfillment of legislative mandates for child protection and child welfare programs. These mandated services, and certain other essential social services, are provided without regard to income (WRI) to individuals in need. Individuals to be served also include low-income persons as defined in the intended use report who meet eligibility criteria for services provided through SSBG funding.

Services designated for provision through SSBG funding for SFY 2019-2020 are:

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**Office of the Governor
Coastal Protection and Restoration Authority**

**Notice of Availability of the Deepwater Horizon Oil Spill
Louisiana Trustee Implementation Group Draft
Supplemental Restoration Plan and Environmental
Assessment for the Lake Charles Science Center and
Educational Complex Project Modification**

- A. adoption (pre-placement to termination of parental rights);
- B. child protective services including assessment, evaluation, social work intervention, shelter care, counseling and referrals for child abuse/neglect reports;
- C. family services (social work intervention subsequent to validation of a report of child abuse/neglect, counseling to high risk groups);
- D. foster care/residential care services (foster, residential care, and treatment on a 24-hour basis).

Definitions for the proposed services are set forth in the intended use report.

Persons eligible for SSBG funded services include:

- A. persons WRI, who are in need of adoption services, child protection, family services, and foster care/residential services;
- B. individuals WRI who are recipients of Title IV-E adoption assistance;
- C. recipients of supplemental security income (SSI) and recipients of Temporary Assistance for Needy Families (TANF) and those persons whose needs were taken into account in determining the needs of TANF recipients;
- D. low-income persons (income eligible) whose gross monthly income is not more than 125 percent of the poverty level. A family of four with gross monthly income of not more than \$2050 would qualify as income eligible for services;
- E. persons receiving Title XIX (Medicaid) benefits and certain Medicaid applicants identified in the proposed plan as eligible groups.

The post expenditure report for the SSBG program for SFY 2018 is included in the SSBG intended use report for SFY 2019-2020. Free copies are available by telephone request to (225) 342-5918 or by writing to the Administrator, Child Welfare Section, P.O. Box 3318, Baton Rouge, LA 70821.

The report is available for public review online at: <http://www.dss.state.la.us/index.cfm?md=pagebuilder&tmp=home&pid=131>, then select the 2018-2019 SSBG link. Inquiries and comments on the plan may be submitted in writing to the DCFS, Attention Administrator, P.O. Box 3318, Baton Rouge, LA 70821. The deadline for receipt of written comments is May 2, 2019 at 4 p.m.

All interested persons will have the opportunity to provide comments and/or recommendations on the plan, orally or in writing, at a public hearing scheduled for May 2, 2019 at 11 a.m. in Room 1-129 of the Iberville Building located at 627 North Fourth Street, Baton Rouge. Individuals with disabilities who require special services should contact the DCFS Appeals Unit at least seven working days in advance of the hearing. For assistance, call (225) 342-4120 (voice and TDD).

Marketa Garner Walters
Secretary

1904#024

Action:

Notice of availability.

Summary:

On July 20, 2018, the Louisiana Coastal Protection and Restoration Authority (CPRA) published a Notice of Availability of the Deepwater Horizon Oil Spill Louisiana Trustee Implementation Group (Louisiana TIG) Final Restoration Plan and Environmental Assessment #2: Provide and Enhance Recreational Opportunities (Final RP/EA #2). The Louisiana TIG is considering modifications to the original Lake Charles Science Center and Educational Complex (Lake Charles SCEC) project described in the Final RP/EA #2. The modifications being considered include collocating the Lake Charles SCEC with the Lake Charles Children’s Museum (LCCM) as part of the shared Port Wonder facility on the north shore of Lake Charles. In accordance with the Oil Pollution Act of 1990 (OPA) and the National Environmental Policy Act (NEPA), the federal and state natural resource trustee agencies for the Louisiana TIG prepared a Draft Supplemental Restoration Plan and Environmental Assessment for the Lake Charles SCEC Project Modification (Draft Supplemental RP/EA). The Draft Supplemental RP/EA evaluates modifications to the Lake Charles SCEC project and alternatives considered by the Louisiana TIG under criteria set forth in the OPA Natural Resource Damage Assessment (NRDA) regulations and evaluates their environmental effects in accordance with the NEPA. The modifications under consideration to the Lake Charles SCEC project are consistent with the restoration alternatives selected in the Deepwater Horizon Oil Spill Final Programmatic Damage Assessment and Restoration Plan/Programmatic Environmental Impact Statement (PDARP/PEIS). The purpose of this notice is to inform the public of the availability of the Draft Supplemental RP/EA and to seek public comment on the document.

Dates:

The Louisiana TIG will consider public comments received on or before May 20, 2019.

Public Meeting: The Louisiana TIG will also take verbal comments at a public meeting that will be held at the Lake Charles Civic Center, Contraband Room, on May 8, 2019; Open House 5:30 p.m., Meeting 6 p.m.; 900 Lakeshore Drive, Lake Charles, LA 70601.

Addresses:

Obtaining Documents: You may download the Draft Supplemental RP/EA at any of the following sites:

- <http://www.gulfspillrestoration.noaa.gov>
- <http://www.la-dwh.com>

Alternatively, you may request a CD of the Draft Supplemental RP/EA (see For Further Information Contact). You may also view the document at any of the public facilities listed at <http://www.gulfspillrestoration.noaa.gov>.

Submitting Comments: You may submit comments on the Draft Supplemental RP/EA by one of the following methods:

- Via the Web: <http://www.gulfspillrestoration.noaa.gov/restoration-areas/louisiana>
- Via U.S. Mail: U.S. Fish and Wildlife Service, P.O. Box 29649, Atlanta, GA 30345
- In Person: Verbal comments may be provided at the public meeting on May 8, 2019

Once submitted, comments cannot be edited or withdrawn. The Louisiana TIG may publish any comment received on the document. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information for which disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. The Louisiana TIG will generally not consider comments or comment contents located outside of the primary submission (i.e. on the web, cloud, or other file sharing system). Please be aware that your entire comment, including your personally identifiable information, will become part of the public record. Please note that mailed comments must be postmarked on or before the comment deadline of 30 days following publication of this notice to be considered.

For Further Information Contact:

- Louisiana – Joann Hicks, 225-342-5477
- EPA – Tim Landers, 202-566-2231

Next Steps

The public is encouraged to review and comment on the Draft Supplemental RP/EA. A public meeting is scheduled to also help facilitate the public review and comment process. A summary of comments received on the Draft Supplemental RP/EA and the Louisiana TIG’s responses, where applicable, will be included in the Final Supplemental RP/EA. Public comments on the Draft Supplemental RP/EA will inform the Louisiana TIG’s decision on whether to select the Lake Charles SCEC project, as modified, in the Final Supplemental RP/EA.

Administrative Record

The documents comprising the Administrative Record for the Draft Supplemental RP/EA can be viewed electronically at <https://www.doi.gov/deepwaterhorizon/adminrecord>.

Authority

The authority for this action is the Oil Pollution Act of 1990 (33 U.S.C. 2701 et seq.), its implementing NRDA regulations found at 15 CFR Part 990, the Louisiana Oil Spill Prevention and Response Act (La. R.S. 30:2451 et

seq.), the implementing Natural Resource Damage Assessment Regulations found at La. Admin. Code 43:101 et seq., and NEPA (42 U.S.C. 4321 et seq.).

Lawrence B. Haase
Executive Director

1904#031

POTPOURRI

**Department of Health
Board of Medical Examiners**

**Public Hearing—Substantive Changes to Proposed Rules
Genetic Counselors, Licensure, Certification and Practice
(LAC 46:XLV, Chapters 38 and 60)**

The Louisiana State Board of Medical Examiners (the “board”) published a Notice of Intent to adopt rules for genetic counselors in the December 20, 2018, edition of the *Louisiana Register* (LR 43:2312-2323). The notice solicited comments. Comments were received in writing. As a result of its consideration of the comments received during its meeting on February 11, 2019, the board elected to make substantive changes to the proposed rules in the following respects:

- (i) in 3803A. definition of Collaborative Practice Agreement, after the words genetic counselor to add the words, “who engages in any of the functions listed in §6021 of these rules.”;
- (ii) in 3821C.6. to delete the words if currently known;
- (iii) in 3821C.7., after the words he or she will not to delete the words practice genetic counseling and add the words “order or select laboratory tests or other evaluations regarding hereditary or carrier conditions (or other testing related to the practice of genetic counseling)”;
- (iv) after 3841A. to add “B. A license issued under this Chapter shall designate whether an applicant's practice includes those functions listed in §6021B.1 of these rules and may be verified on the Board’s web page.”;
- (v) in 6021A. after the words *A genetic counselor* to add the words “who engages in any of the functions listed in §6021B.1 of this Section”;
- (vi) in 6021B.1 after the words genetic counselor’s performance of to add the words “each of the following functions”;
- (vii) after 6021D. to add “E. A collaborative practice agreement is not required for a genetic counselor who does not engage in any of the functions listed in §6021B.1 of this Section.”;
- (viii) in 6023A.1 delete the word practice and in its place the words “engage in any of the functions listed in §6021B.1.”; and
- (ix) in 6025A. after the words a genetic counselor add the words “; who has a CPA with a collaborating physician.”. As substantively amended, these provisions will read as set forth below.

**Title 46
PROFESSIONAL AND OCCUPATIONAL
STANDARDS**

Part XLV. Medical Professions

Subpart 2. Licensure and Certification

Chapter 38. Genetic Counselors

Subchapter A. General Provisions

§3803. Definitions

A. As used in this Chapter, unless the context clearly states otherwise, the following terms and phrases shall have the meanings specified.

* * *

Collaborative practice agreement or *CPA*—a document established by a genetic counselor, who engages in any of the functions listed in §6021 of these rules, and a physician which governs the professional relationship between the genetic counselor and the physician.

* * *

B. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1360.101-1360.111 and 37:1270.

HISTORICAL NOTE: Promulgated by the Department of Health, Board of Medical Examiners, LR 45:

Subchapter C. Application

§3821. Application Procedure

A. - B. ...

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

1. - 5. ...

6. the name, primary practice location and contact information of a collaborating physician;

7. attestation by the applicant certifying that he or she will not order or select laboratory tests or other evaluations regarding hereditary or carrier conditions (or other testing related to the practice of genetic counseling) in this state in the absence of a collaborative practice agreement conforming to the requirements of §6021 of these rules; and

C.8. - E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1360.101-1360.111, 37:1270, 37:1277 and 37:1281.

HISTORICAL NOTE: Promulgated by the Department of Health, Board of Medical Examiners, LR 45:

Subchapter E. Licensure Issuance, Termination, Renewal, and Reinstatement

§3841. Issuance of License

A. ...

B. A license issued under this Chapter shall designate whether an applicant's practice includes those functions listed in §6021B.1 of these rules and may be verified on the Board's web page.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1360.101-1360.111 and 37:1270.

HISTORICAL NOTE: Promulgated by the Department of Health, Board of Medical Examiners, LR

Part XLV. Medical Professions

Subpart 3. Practice

Chapter 60. Genetic Counselors

Subchapter C. Eligibility; Requirements of Collaborative Practice Agreement, Authority and Limitations, Obligations and Responsibility and Required Information

§6021. Collaborative Practice Agreement; Requirements; Annual Review and Signature

A. A genetic counselor who engages in any of the functions listed in §6021B.1 of this Section shall enter into a collaborative practice agreement with a physician who agrees to work with and provide medical support to the genetic counselor.

B. The CPA shall be set forth in a formal document that memorializes the relationship between the genetic counselor and CP and, at a minimum:

1. establish the criteria governing the genetic counselor's performance of any of the following functions:

B.1.a. - D. ...

E. A collaborative practice agreement is not required for a genetic counselor who does not engage in any of the functions listed in §6021B.1 of this Section.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1360.101-1360.111 and 37:1270.

HISTORICAL NOTE: Promulgated by the Department of Health, Board of Medical Examiners, LR 45:

§6023. Authority and Limitations of Genetic Counselors

A. A genetic counselor shall not:

1. engage in any of the functions listed in §6021B.1. without a current collaborative practice agreement with a collaborating physician, as defined or provided in this Chapter;

A.2. - B.1. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1360.101-1360.111 and 37:1270.

HISTORICAL NOTE: Promulgated by the Department of Health, Board of Medical Examiners, LR 45:

§6025. Obligations and Responsibilities

A. It shall be the mutual obligation of a genetic counselor, who has a CPA with a collaborating physician, and collaborating physician to:

1. - 4. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1360.101-1360.111 and 37:1270.

HISTORICAL NOTE: Promulgated by the Department of Health, Board of Medical Examiners, LR 45:

No fiscal or economic impact will result from the amendments proposed in this notice.

Public Hearing

In accordance with R.S. 49:968(H)(2), the board gives notice that a public hearing to receive comments and testimony on these substantive changes to the rule amendments originally proposed will be held on Thursday,

May 30, 2019, at 9 a.m., in the office of the Louisiana State Board of Medical Examiners, 630 Camp Street, New Orleans, Louisiana 70130. Interested persons may submit written comments on these proposed substantive changes to Rita Arceneaux, Confidential Executive Assistant, Louisiana State Board of Medical Examiners, 630 Camp Street, New Orleans, Louisiana, 70130, (504) 568-6820, Ex. 242. She is responsible for responding to inquiries. Written comments will be accepted until 4 p.m., May 21, 2019.

Vincent A. Culotta, Jr., M.D.,
Executive Director

1904#056

POTPOURRI

Department of Health Licensed Professional Counselors Board of Examiners

Licensure Revisions (LAC 46:LX.503)

In accordance with the applicable provisions of the Louisiana Administrative Procedures Act (R.S.49:950 et seq.) and through the authority of the Mental Health Counselor Licensing Act (R.S. 37:1101 et seq.), the Louisiana Licensed Professional Counselors published a Notice of Intent in the November 20, 2018 edition of the Louisiana Register to amend several sections of Chapter 5. After further review the original proposal is resubmitted, as revised, for publication in the Potpourri sections of the Louisiana Register.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS REVISED

Part LX. Licensed Professional Counselors Board of Examiners

Subpart 1. Licensed Professional Counselors

Chapter 5. License and Practice of Counseling

§503. Definitions for Licensed Professional Counselors and Provisional Licensed Professional Counselors

A. For purposes of this Part, the following definitions will apply.

Active Supervision—the process by which a supervisee receives one hour of face-to-face supervision with his/her board-approved supervisor for every 20 hours of direct client contact. Active Supervision is based on direct client contact hours. Supervision hours shall be adjusted if the provisional licensed professional counselor has less than or more than 20 hours of direct contact. The supervisor and supervisee must meet at least one hour within a three-month period.

Administrative Supervisor—person responsible for the overall administrative functions of their agency/organization. The Administrative Supervisor is responsible for the control, oversight and responsibility of PLPC in the setting in which the PLPC is employed, contracted or volunteering.

Applicant—an individual who has submitted an application to the board for the initial review, renewal, reinstatement of a license or certification.

Bureau—the Louisiana State Police Bureau of Criminal Identification and Information.

Clinical Supervision—a distinct professional practice employing a collaborative relationship between a supervisor and a supervisee. At a minimum, this relationship has facilitative, evaluative, and supervisory components. The goal of Clinical Supervision is to enhance the professional competence, monitor the quality of services provided, maintain the ethical standards of practice, protect the welfare of the public, and serve as a gatekeeper for entry into the mental health counseling profession. All licensees who serve in a supervisory capacity are governed by the current ACA code of ethics for supervision. All licensees that supervise another person are governed by the code of conduct and regulatory standards regarding supervisor and supervision set forth by the Licensed Professional Counselors Board of Examiners. A supervisor may not be a relative of the PLPC. Relative of the PLPC is defined as spouse, parent, child, sibling of the whole-or half-blood, grandparent, grandchild, aunt, uncle, one who is or has been related by marriage or has any other dual relationship. Caution must be exercised in dual relationships when serving as both the Administrative Supervisor and the LPC Supervisor.

Contract Employee/Private Contractor—an employee who works under contract for an employer. Hired for a specific job at a specific rate of pay; is not considered a permanent employee. A PLPC may be a contracted employee.

Criminal History Record Information—information collected by state and federal criminal justice agencies on individuals consisting of identifiable descriptions and notations of arrests, detentions, indictments, bills of information, or any formal criminal charges, and any disposition arising from, including sentencing, criminal correctional supervision and release. It shall not include intelligence information gathered for investigatory purposes or any identification information that does not indicate involvement of the individual in the criminal justice system.

Licensure—any license, certification, or registration for the practice of mental health counseling approved by the board.

LPC Supervisor—provides clinical supervision to the PLPC, which must be approved by the board. The LPC Supervisor has the responsibility of assisting PLPCs in increasing their competences as a mental health professional. The LPC Supervisor has no control, oversight, or responsibility for the services of a PLPC whom they are supervising within the agency/organization they are employed, contracted or volunteering, unless the LPC supervisor also serves as the administrative supervisor of the PLPC. To be designated as a LPC Supervisor, one must be approved by the board and fulfill the requirements outlined in Chapter 8.

Practice of Mental Health Counseling/Psychotherapy—rendering or offering prevention, assessment, diagnosis, and treatment, which includes psychotherapy of mental, emotional, behavioral, and addiction disorders to individuals, groups, organizations, or the general public by a licensed or provisional licensed professional counselor, which is consistent with his/her professional training as prescribed by R.S. 37:1107(A)(8), and *Code of Ethics*/behavior involving the application of principles,

methods, or procedures of the mental health counseling profession which includes but is not limited to the following.

a. *Mental Health Counseling/Psychotherapy*—assisting an individual or group through psychotherapy by rendering or offering prevention, assessment, diagnosis, and treatment, which includes psychotherapy of mental, emotional, behavioral, and addiction disorders. This professional relationship empowers diverse individuals, families, and groups to accomplish mental health, wellness, education, and career goals.

b. *Consulting*—interpreting or reporting scientific fact or theory to provide assistance in solving current or potential problems of individuals, groups, or organizations. Section 505 defines ongoing consultation and collaboration for assessment, diagnosis, and treatment of serious mental illnesses.

c. *Referral Activities*—the evaluation of data to identify problems and to determine the advisability of referral to other specialists.

d. *Research Activities*—reporting, designing, conducting, or consulting on research in counseling with human subjects.

e. Appraisal—

i. use or administration of tests of language, educational and achievement tests, adaptive behavioral tests, and symptoms screening checklists or instruments, as well as tests of abilities, interests, and aptitudes, for the purpose of diagnosing those conditions allowed within the scope of these statutes, defining counseling goals, planning and implementing interventions, and documenting clients progress as related to mental health counseling. Appraisal includes but is not necessarily limited to the following areas.

(a). *Abilities*—those normative-based individual and group administered instruments used to measure general mental ability vis-a-vis specific abilities.

(b). *Interests*—those normative-based individual and group administered instruments used to suggest educational and vocational adjustment, interpersonal relations, intrapersonal tendencies and interests, satisfaction from avocational pursuits, and other major phases of human development.

(c). *Aptitudes*—those normative-based individual and group administered instruments used to measure special ability related to a future task(s).

ii. Qualified licensed professional counselors as well as other appropriately licensed or certified professionals may also administer or use test of language, educational and achievement, adaptive behavior tests, and symptom screening checklists or instruments. The administration and interpretation of these tests are not exclusively within the scope of this regulation.

iii. Appraisals done within the practice of mental health counseling must be performed in accordance with the requirements of the *Louisiana Administrative Code*, Title 46, Part LX, Chapter 21, Code of Conduct for Licensed Professional Counselors and Provisional Licensed Professional Counselors. A licensed professional counselor must be privileged by this board to utilize formal appraisal instruments and shall limit such use to those areas heretofore mentioned in this Chapter. A licensed professional counselor

who wishes to be board privileged to utilize formal appraisal instruments in the appraisal of individuals shall additionally furnish this board satisfactory evidence of formal graduate training in statistics, sampling theory, test construction, test and measurements and individual differences and must renew this privileging designation every two years (as defined in Chapter 7). Formal training shall include a practicum and supervised practice with appraisal instruments.

f. *Graduate Degree*—the substance of which is professional mental health counseling from a regionally accredited university (as defined in Chapter 7) and must conform to one of the criteria below:

i. a CACREP accredited—program or its equivalent as determined by the board.

ii. a counseling program incorporating the word “counseling” or “counselor” in its title;

iii. a program incorporating a counseling-related term in its title (e.g., marriage and family therapy); or

iv. a program incorporating the eight content areas, a counseling practicum, and a counseling internship.

g. The requisite graduate degree may not consist of a degree in any disciplines otherwise licensed by the state of Louisiana including, but not limited to, psychology, clinical psychology, or social work, with the exception of counseling psychology and vocational rehabilitation counseling programs.

Provisional Licensed Professional Counselor—any person by title or description of services incorporating the words "provisional licensed professional counselor" and who, under board-approved supervision (i.e. may not practice independently), renders professional mental health counseling/psychotherapy services denoting a client-counselor relationship in which the licensee assumes the responsibility for knowledge, skill, and ethical consideration needed to assist individuals, groups, organizations, or the general public, and who implies that he/she is provisionally licensed to practice mental health counseling.

Temporary Registered LPC—

a. any person who:

i. holds a full and unrestricted license or certificate in mental health counseling/psychotherapy in another state or U.S. territory;

ii. are temporarily employed in Louisiana to render mental health counseling services for not more than 30 consecutive days a year or during a declared state of emergency

b. The board must pre-approve any exception to this Subsection.

AUTHORITY NOTE: Promulgated in accordance with R.S. 371101-1123.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Examiners of Professional Counselors, LR 14:83 (February 1988), amended by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 16:302 (April 1990), LR 18:51 (January, 1992), LR 22:101 (February 1996), LR 24:437 (March 1998), LR 24:2124 (November 1998), LR 26:493 (March 2000), LR 29:130 (February 2003), LR 33:2654 (December 2007), LR 39:1783 (July 2013), LR 41:710 (April 2015), amended by the

Jamie S. Doming
Executive Director

1904#011

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
B M Oil, Inc.	Jennings	L	Heywood	001	8298
B M Oil, Inc.	Welsh	L	Walshe	005	13246
B M Oil, Inc.	Welsh	L	B M Fee	002	14470
B M Oil, Inc.	Welsh	L	Walshe	001	20817
B M Oil, Inc.	Welsh	L	B M Fee	003	21206
B M Oil, Inc.	Jennings	L	Heywood	028	25424
B M Oil, Inc.	Welsh	L	B M Fee	001	26243
B M Oil, Inc.	Jennings	L	Heywood	032	29872
B M Oil, Inc.	Jennings	L	Heywood Swd	033	31526
B M Oil, Inc.	Jennings	L	Heywood	006	32821
B M Oil, Inc.	Jennings	L	Heywood	034	33332
B M Oil, Inc.	Jennings	L	Heywood	036	40309
B M Oil, Inc.	Jennings	L	Heywood	037	44533
B M Oil, Inc.	Jennings	L	Heywood	002	47203
B M Oil, Inc.	Jennings	L	Heywood	038	51460
B M Oil, Inc.	Jennings	L	Fremaux Swd	004	81186
B M Oil, Inc.	Jennings	L	Fremaux	005	81187
B M Oil, Inc.	Jennings	L	Iowa-Jennings	001	94676
B M Oil, Inc.	Jennings	L	Heywood	039	183106
B M Oil, Inc.	Jennings	L	Heywood	046	184829

Operator	Field	District	Well Name	Well Number	Serial Number
B M Oil, Inc.	Jennings	L	Heywood	047	186449
B M Oil, Inc.	Jennings	L	Heywood	040	188026
B M Oil, Inc.	Jennings	L	Heywood	048	191848
B M Oil, Inc.	Jennings	L	Heywood	049	193462
B M Oil, Inc.	Jennings	L	Heywood	045	196173
B M Oil, Inc.	Jennings	L	Heywood	044	197679
B M Oil, Inc.	Jennings	L	Heywood	041	199625
B M Oil, Inc.	Jennings	L	Heywood	042	200596
B M Oil, Inc.	Welsh	L	Walshe	006	204648
B M Oil, Inc.	Welsh	L	Walshe	007	205129
B M Oil, Inc.	Welsh	L	B M Fee	004	205825
B M Oil, Inc.	Welsh	L	B M Fee	006	206689
B M Oil, Inc.	Welsh	L	B M Fee	005	207012
D. C. Richardson Tr	Wildcat-No La Shreveport Dist	S	Youree Etal	002	9068
Southwest La. Der. Oil Co.	Wildcat-So La Lafayette Dist	L	Lassiter	001	6881
Summit Oil & Gas, Llc	Bay Jaque	L	LI&E	S-2	137237
Summit Oil & Gas, Llc	Bay Jaque	L	LI&E	S-4	137566
Summit Oil & Gas, Llc	Bay Jaque	L	LI&E Swd	S-6	138214
Summit Oil & Gas, Llc	Leeville	L	LI&E	001	195306
Summit Oil & Gas, Llc	Wildcat-So La Lafayette Dist	L	S1 15822	1	224062
Summit Oil & Gas, Llc	Leeville	L	LI&E	002	227182
Sutton Oil Co.	Wildcat-So La Lafayette Dist	L	Little	001	12583

Richard P. Ieyoub
Commissioner

1904#028

POTPOURRI
Department of State
Elections Program

Public Hearing—Substantive Changes to Proposed
Rule—Recognition of Political Parties (LAC 31:I.905)

Under the authority of the Administrative Procedure Act (R.S. 49:950 et seq.) and under the authority of R.S. 18:441 and R.S. 36:742, the Department of State published a Notice of Intent to amend the rules regarding recognition of Political Parties in the September 20, 2018 edition of the *Louisiana Register*. If a political party wants to register as a recognized political party, they are required to procure a statewide list of all voters who are registered as being affiliated with the political party from the department. Consideration was given to an Advisory Opinion made by the Department of Justice concerning the fee for printing a list at an estimated cost of \$20. The original proposal for Section 905 is being resubmitted, as revised, for publication in the Potpourri Section of the *Louisiana Register*. The Department of State must make a substantive change to the LAC citation from LAC 31:II.105.C to LAC 31:II.105.C.1. Since these are the current fees, the original impact statement will still be applicable per our discussion with the Legislative Fiscal Office.

Title 31

ELECTIONS

Part I. Election Process

Chapter 9. Recognition of Political Parties

§905. Political Party Recognition Based on Registered Voters

A. ...

B. The political party shall be required to purchase from the Department of State a statewide list of all voters who are registered as being affiliated with the political party in the state of Louisiana pursuant to the provisions of LAC 31:II.105.C.1 (Sale of Voter Registration Lists). The list of registered voters shall be dated by the department.

C. - D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 18:441 and R.S. 36:742.

HISTORICAL NOTE: Promulgated by the Department of State, Elections Division, LR 34:703 (April 2008), amended LR 45:

Public Hearing

In accordance with R.S. 49:968(H)(2), a public hearing on the proposed revisions to the Notice of Intent will be held on Tuesday, May 25, 2019 at 1 p.m. in the Auditorium at the State Archives Building, 3851 Essen Lane, Baton Rouge, LA. At that time, all interested persons will be afforded the opportunity to submit data, views, or arguments, either orally or in writing. All comments must be received in writing in order to be submitted to legislative oversight committees. Interested persons may submit written comments to Steve Hawkland, Attorney, Legal Division, Department of State, P.O. Box 94125, Baton Rouge, LA 70804-9125. He will be responsible for responding to inquiries regarding the proposed Rule. The deadline for the

Department of State to receive written comments is 4:30 p.m. on Wednesday, May 26, 2019 after the public hearing.

R. Kyle Ardoin
Secretary of State

1904#066

POTPOURRI

Department of State
Museums Program

Public Hearing—Substantive Changes to Proposed Rule—
Department of State Museums (LAC 25:VI.305, 307, 311)

Under the authority of the Administrative Procedure Act (R.S. 49:950 et seq.) and under the authority of R.S. 36:742, R.S. 36:744, and R.S. 49:222(A), the Department of State published a Notice of Intent to adopt rules and regulations for the Department of State's museums in the September 20, 2018 edition of the *Louisiana Register*. The Department of State conducted a public hearing on Tuesday, October 30, 2018 to receive comments and testimony on the proposed Rule. At the public hearing, the Department reported that it had received a written comment regarding the Louisiana State Cotton Museum using a per hour fee for rental rather than a per event fee which is currently being used. After receiving this comment, the codirectors of the Museums Program reviewed the Notice of Intent and it was noted that two other museums are currently using a per event fee rather than a per hour fee. Consideration was given to the comment received and as a result, the Department of State proposes to amend Sections 305, 307, and 311. The original proposal for Sections 305, 307, and 311 are being resubmitted, as revised, for publication in the Potpourri Section of the *Louisiana Register*. Since these are the current fees, the original impact statement will still be applicable per our communications with the Legislative Fiscal Office.

Title 25

CULTURAL RESOURCES

Part VI. Department of State's Museums

Chapter 3. Museums Fees

§305. Louisiana State Cotton Museum Fees

A. Daytime Events. Daytime events shall be held during regular business hours. The building shall remain open to the public during the scheduled event time although special arrangements may be made to restrict public access to event areas. All of the following daytime event fees include tables, chairs, janitorial service, and set-up and breakdown of the event:

1. for a four-hour event or less without food and beverage, the event fee will be \$50; and

2. for an eight-hour event or less with food and beverage, the event fee will be \$100.

B. Evening Events. Private events shall be no more than four hours in duration and shall be scheduled after regular business hours. No event shall run beyond midnight. The event fee shall be \$300.

C. All rentals require a 10 percent non-refundable deposit to reserve the date.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:742, R.S. 36:744, and R.S. 49:222(A).

HISTORICAL NOTE: Promulgated by the Department of State, Museums Program, LR 45:

§307. Louisiana Delta Music Museum Fees

A. Daytime Events. Daytime events shall be held during regular business hours. The building shall remain open to the public during the scheduled event time although special arrangements may be made to restrict public access to event areas. All of the following daytime event fees include tables, chairs, janitorial service, and set-up and breakdown of the event. The event fee shall be \$200.

B. Evening and Weekend Events. Private events shall be held for no more than four hours in duration. The event fee shall be \$420. Evening events shall be scheduled after regular business hours. No event shall run beyond midnight.

C. A refundable damage deposit of \$100 is required for all rentals.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:742, R.S. 36:744, and R.S. 49:222(A).

HISTORICAL NOTE: Promulgated by the Department of State, Museums Program, LR 45:

§311. Louisiana Oil and Gas Museum Fees

A. Evening Events. Private events shall be held for no more than four hours in duration and shall be scheduled after regular business hours. The event fee shall be \$500. No event shall run beyond midnight.

B. A refundable damage deposit of \$250 is required for all rentals.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:742, R.S. 36:744, and R.S. 49:222(A).

HISTORICAL NOTE: Promulgated by the Department of State, Museums Program, LR 45:

Public Hearing

In accordance with R.S. 49:968(H)(2), a public hearing on the proposed revisions to the Notice of Intent will be held on Tuesday, May 28, 2019 at 1 p.m. in the Auditorium at the State Archives Building, 3851 Essen Lane, Baton Rouge, LA. At that time, all interested persons will be afforded an opportunity to submit data, views, or arguments, either orally or in writing, regarding the proposed action. All comments must be received in writing in order to be submitted to legislative oversight committees. Interested persons should submit written comments to Steve Hawkland, Attorney, Legal Division, Department of State, P.O. Box 94125, Baton Rouge, LA 70804-9125. He will be responsible for responding to inquiries regarding the proposed Rule. The deadline for the Department of State to receive written comments is 4:30 p.m. on Wednesday, May 29, 2019 after the public hearing.

R. Kyle Ardoin
Secretary of State

1904#067

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