

## CONTENTS

### I. EXECUTIVE ORDERS

EWE 92-36—Amends EWE 92-5 to add members to the Task Force on African Trade . . . . .	553
EWE 92-37—Establishes Governor's Advisory Council on Disability Affairs and defines membership and certain duties . . . . .	553
EWE 92-38—Establishes the Inter-Agency Transportation Coordination Committee and defines membership and certain duties . . . . .	554
EWE 92-39—Authorizes the Cash Management Review Board to prepare an interim agreement pertaining to exchange of federal and state funds . . . . .	554

### II. EMERGENCY RULES

Education Department:	
Board of Elementary and Secondary Education—Bulletin 741-Computer Literacy Requirements . . . . .	555
Bulletin 1895-Model Career Options Program (MCOP) Guide FY 92-93 . . . . .	555
Technical Institutes Name Change . . . . .	566
Governor's Office:	
Commission on Law Enforcement and Administration of Criminal Justice, Sentencing Commission—Felony Sentencing Guidelines (LAC 22:IX.Chapters 2 and 4) . . . . .	566
Health and Hospitals Department:	
Office of Management and Finance—HIV Home Based Care . . . . .	569
Office of the Secretary, Bureau of Health Services Financing—Case Management Services-Interim Rate Per Unit . . . . .	570
Federally-Qualified Health Center Reimbursement Based on Allowable Costs . . . . .	571
Increase Reimbursement for Medicaid Non-Emergency Ambulance . . . . .	571
MAP—AFDC and SSI Eligibles, coverage . . . . .	572
MAP—Inpatient Services to Infants . . . . .	572
MAP—Non-Emergency Transportation Services . . . . .	573
MAP—Nursing Home Services . . . . .	573
Social Services Department:	
Office of Community Services—Adoption Subsidy Program . . . . .	574
Treasury Department:	
Board of Trustees of the State Employees Group Benefits Program—Plan Document . . . . .	575
Wildlife and Fisheries Department:	
Office of Fisheries—Commercial Red Snapper Season . . . . .	596
King Mackerel Season . . . . .	596
Wildlife and Fisheries Commission—Mullet Harvest . . . . .	596

### III. RULES

Agriculture and Forestry Department:	
Office of Forestry—Reforestation of Public Lands (LAC 7:XXXIX.Chapter 209) . . . . .	597
Civil Service Department:	
Commission on Ethics for Public Employees—Conflict of Interest Disclosure . . . . .	598
Economic Development Department:	
Board of Architectural Examiners—Examination Applications (LAC 46:I.501) . . . . .	599
Examinations-Accommodating Physical Handicaps (LAC 46:I.511) . . . . .	599
Real Estate Appraisal Subcommittee—Basic Education Requirement for Certification (LAC 46:LXVII.Chapter 103) . . . . .	599
Residential and General Certification (LAC 46:LXVII.10313) . . . . .	600
Education Department:	
Board of Elementary and Secondary Education—8g Annual Program and Budget FY 92-93 . . . . .	600
American Sign Language . . . . .	601
Special Education Pilot Program (LAC 28:I.313) . . . . .	602
Technical Institute/Regional Management Center Calendars (LAC 28:I.1525) . . . . .	602
Bureau of Continuing Education—Bulletin 1619-Professional Improvement Program (PIP) . . . . .	602
Student Financial Assistance Commission, Office of Student Financial Assistance—Policy to Stop Payment on Award Checks . . . . .	603
Release of Midyear Scholarship Awards . . . . .	603
Tuition Assistance Plan Application Deadline . . . . .	603
Tuition Assistance Plan Billing Procedures . . . . .	603
Environmental Quality Department:	
Office of Air Quality and Radiation Protection—Naturally Occurring Radioactive Material (NORM) (NE04) (LAC 33:XV.Chapter 14) . . . . .	604
Standards of Performance for Volatile Organic Compound (VOC) Emissions from Polymer Manufacturing Industry (AQ47) (LAC 33:III.3815) . . . . .	610

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Governor's Office:	
Division of Administration, Office of Telecommunications Management—Non-State Entity Use (LAC 4:IX.Chapters 5 and 20)	610
Office of Elderly Affairs—Area Agency on Aging Priority Services (LAC 4:VII.Chapters 11 and 12)	610
Health and Hospitals Department:	
Board of Dentistry—Dental Hygienists (LAC 46:XXXIII.Chapter 7)	611
Dental Specialists, Credentials-Professional Competence and Ethics (LAC 46:XXXIII.Chapter 3)	612
Display of License (LAC 46:XXXIII.104)	614
Fees and Costs (LAC 46:XXXIII.415 and 419)	615
Hepatitis B Virus and Human Immunodeficiency Virus (LAC 46:XXXIII.Chapter 12)	615
Office of Public Health—Sanitary Code, Plumbing (Chapter XIV)	618
Water Supplies (Chapter 1)	618
Insurance Department:	
Commissioner of Insurance—Regulation 39-Insolvency Protection-Reserve Requirements	619
Regulation 40-Life/Health Insurer Insolvency Disclaimer	620
Rule 12-Transmittal of Information	620
Treasury Department:	
Board of Trustees of the Teachers' Retirement System of Louisiana—Deferred Retirement Option Plan (DROP)	621

**IV. NOTICES OF INTENT**

Agriculture and Forestry Department:	
Office of Agricultural and Environmental Sciences—Pesticide-Commercial Applicators Certification (LAC 7:XXIII.Chapter 131)	622
Seed Commission—Cottonseed Seed Certification Standards (LAC 7:XIII.8763)	624
Civil Service Department:	
Civil Service Commission—Adverse Actions, Investigations and Resignations-Chapter 12	624
Economic Development Department:	
Office of Financial Institutions, Commissioner of Securities—Oil and Gas Auction Exemptions	625
Stock Exchange Exemptions	626
Education Department:	
Board of Elementary and Secondary Education—Bulletin 1858, Adult Education State Plan FY 89-93	627
Migrant Education State Plan	627
Textbook Adoption Cycle	628
Environmental Quality Department:	
Office of Air Quality and Radiation Protection—Vapor Recovery Systems (AQ61) (LAC 33:III.2132 and 6523)	629
Governor's Office	
Commission on Law Enforcement and Administration of Criminal Justice, Sentencing Commission—Felony Sentencing (LAC 22:IX. Chapters 2 and 4)	631
Louisiana Property Assistance Agency—Items of Property to be Inventoried (LAC 34:VII.307)	632
Health and Hospitals Department:	
Board of Examiners in Dietetics and Nutrition—Dietitians/Nutritionists-Licensure (LAC 46:LXIX.103)	633
Board of Examiners of Psychologists—Psychological Testing, Evaluation and Assessment (LAC 46:LXIII.1702)	633
Board of Physical Therapy Examiners—Qualifications for Licensure and Fees (LAC 46:LIV.115 and 501)	634
Board of Practical Nurse Examiners—Education and Licensure (LAC 46:XLVII.Chapters 3-17)	635
Office of the Secretary, Bureau of Health Services Financing—Case Management Services Interim Rate Increase	636
MAP—Anesthesia Services Payment	636
MAP—Extends Coverage for AFDC and SSI Eligibles	638
MAP—Filling of Pharmacy Prescriptions	639
MAP—Increase Reimbursement for Non-Emergency Ambulance	640
MAP—Medical Transportation Services in Specified Areas	640
MAP—Non-Emergency Ambulance Transportation Reimbursement	641
MAP—Nursing Home Services	642
MAP—Utilization Review	643
Natural Resources Department:	
Office of Conservation—Underwater Obstructions (LAC 43:XI.301 and 311)	643
Social Services Department:	
Office of Community Services—Adoption Subsidy Program	646
Office of Family Support—JOBS-Project Independence (LAC 67:III.2901)	646
Rehabilitation Services, Commission for the Deaf—Sign Language Interpreter Certification	647
Transportation and Development Department:	
Office of Highways—Recycling of Highway Construction and Maintenance Materials (LAC 70:III.Chapter 9)	648
Treasury Department:	
Bond Commission—Reporting Requirements for Bond Issuer	649

**V. POTPOURRI**

Environmental Quality Department:	
Office of Air Quality and Radiation Protection—Annual Toxics Emissions Report	650
Natural Resources Department:	
Office of the Secretary, Fisherman's Gear Compensation Fund—Claims	650
Social Services Department:	
Office of the Secretary—Child Care Providers-Quality Incentive Program	650

# Executive Orders

## EXECUTIVE ORDER EWE 92-36

WHEREAS, there is a need for additional effort to enhance the relationship between the state of Louisiana and the continent of Africa; and

WHEREAS, Executive Order EWE 92-5 was executed to develop the economic and cultural relationship between the state of Louisiana and the continent of Africa; and

WHEREAS, the Louisiana Task Force on African Trade, Finance, and Development, as created by Executive Order 92-5, could perform its duties and functions in a more efficient and effective manner with the assistance of two additional members;

NOW THEREFORE I, EDWIN W. EDWARDS, Governor of the State of Louisiana, by virtue of the Constitution and laws of the state of Louisiana, do hereby amend and reenact Executive Order EWE 92-5 as follows:

SECTION 1: The Louisiana Task Force on African Trade, Finance, and Development shall be composed of the following additional members:

A. executive assistant to the governor for Minority Affairs;

B. two members at-large

SECTION 2: All other orders and directions of Executive Order EWE 92-5 remain in effect.

SECTION 3: All departments, commissions, boards, agencies, and officers of the state or any political subdivision thereof are authorized and directed to cooperate with the Louisiana Task Force on African Trade, Finance, and Development in implementing the provisions of this executive order.

SECTION 4: The provisions of this executive order are effective upon signature, and shall remain in effect until amended, modified, or rescinded by operation of law.

IN WITNESS WHEREOF, I have hereunto set my hand officially and caused to be affixed the Great Seal of the State of Louisiana, at the Capitol, in the City of Baton Rouge on this fifteenth day of May, 1992.

Edwin Edwards  
Governor

ATTEST BY  
THE GOVERNOR  
Fox McKeithen  
Secretary of State

## EXECUTIVE ORDER EWE 92-37

WHEREAS, the disabled people of Louisiana have special concerns and needs relative to the protection of their health, safety and welfare; and

WHEREAS, state and local governments must not discriminate against individuals with disabilities; and

WHEREAS, the state of Louisiana must administer services and programs in the most integrated setting appropriate; and

WHEREAS, the disabled people of Louisiana have a need for information and education on the Americans with Disabilities Act; and

WHEREAS, employers, businesses, and communities throughout the state have a need for information and education on the Americans with Disabilities Act; and

WHEREAS, the state of Louisiana would best serve the needs of its disabled people through a centralized and coordinated effort, in part composed of a Governor's Advisory Council on Disability Affairs;

NOW THEREFORE I, EDWIN W. EDWARDS, Governor of the state of Louisiana, by virtue of the Constitution and laws of the State of Louisiana, do hereby create and establish the Governor's Advisory Council on Disability Affairs within the Executive Department, Office of the Governor, and do hereby order and direct as follows:

SECTION 1: The Governor's Advisory Council on Disability Affairs is hereby created and established within the Executive Department, Office of the Governor.

SECTION 2: The duties and functions of the Governor's Advisory Council on Disability Affairs include, but are not limited to, advising the governor on all issues relative to the disabled; coordinating state compliance with the Americans with Disabilities Act; identifying and obtaining sources of funding for the Office of Disability Affairs; and other duties and functions as requested by the governor.

SECTION 3: The chairman of the Governor's Advisory Council on Disability Affairs shall be appointed by the governor.

SECTION 4: The members of the Governor's Advisory Council on Disability Affairs shall be appointed by and serve at the pleasure of the governor, and shall receive no compensation for their services.

SECTION 5: The Governor's Advisory Council on Disability Affairs shall include disabled members, and shall consist of 25 members composed of the following:

Governor, or his Designee;

Lieutenant Governor, or her Designee;

Secretary of State, or his Designee;

Attorney General, or his Designee;

State Treasurer, or her Designee;

Commissioner of Agriculture and Forestry, or his Designee;

nee;

Commissioner of Insurance, or his Designee;

Commissioner of Elections, or his Designee;

State Fire Marshal, or his Designee;

Director of Facility Planning and Control, or his Designee;

nee;

15 members at-large.

SECTION 6: The Governor's Advisory Council on Disability Affairs shall make a written report to the governor of their findings 90 days after the execution of this executive order, and thereafter as directed by the governor.

SECTION 7: All departments, commissions, boards, agencies, and officers of the state or of any political subdivision thereof are authorized and directed to cooperate with the Governor's Advisory Council on Disability Affairs in implementing the provisions of this executive order.

SECTION 8: This executive order shall be effective upon signature.

IN WITNESS WHEREOF, I have hereunto set my hand officially and caused to be affixed the Great Seal of the State of Louisiana, at the Capitol, in the City of Baton Rouge, on this twenty-seventh day of 1992.

Edwin Edwards  
Governor

ATTEST BY  
THE GOVERNOR  
Fox McKeithen  
Secretary of State

#### EXECUTIVE ORDER EWE 92-38

WHEREAS, at present, multiple state agencies have responsibility for the provision of transportation services resulting in the lack of cohesive and coordinated transportation policies; and

WHEREAS, on-going coordination of transportation policies and the provision of transportation services should maximize the utilization of transportation resources and increase the cost efficiency of providing transportation services; and

WHEREAS, such coordination can only be accomplished through continuous, open communication and cooperation between the various state agencies responsible for the provision of transportation services;

NOW THEREFORE I, EDWIN W. EDWARDS, Governor of the State of Louisiana, do hereby order and direct as follows:

SECTION 1: The Inter-Agency Transportation Coordination Committee is hereby established in the Office of the Secretary of the Department of Transportation and Development and shall be composed of the following members:

- A. the secretary of the Department of Transportation and Development, or his designee;
- B. the secretary of the Department of Health and Hospitals, or his designee;
- C. the secretary of the Department of Social Services, or her designee;
- D. the secretary of the Department of Employment and Training, or her designee;
- E. the executive director of the Governor's Office of Elderly Affairs, or his designee;
- F. one provider of transportation services to be appointed by the governor;
- G. one consumer of transportation services to be appointed by the governor.

SECTION 2: The purpose of the committee is to make recommendations designed to maximize the utilization of transportation resources and to increase the cost efficiency of providing transportation services through the coordination and consolidation of planning, funding, administration, and provision of public and specialized transportation services.

SECTION 3: The committee shall:

- A. Review and evaluate the transportation provision policies of each agency to determine methods to facilitate the coordination of transportation services, specifically addressing accounting and reporting requirements, including definitions of "standard units of service".
- B. Develop and maintain a consolidated inventory of

all transportation providers operating within the state. Each state agency involved in the provision of transportation services shall provide such information as is necessary to compile the inventory including, but not necessarily limited to, information relative to funding, expenses, revenues, ridership, and performance.

SECTION 4: The governor shall designate the secretary of the Department of Transportation and Development as the chairman of the committee. A majority of the members shall constitute a quorum for the transaction of business.

SECTION 5: The committee shall hold an organizational meeting no later than 30 days after the effective date of this order. After the initial meeting, the committee shall meet at such times as deemed necessary by the chairman.

SECTION 6: The secretary of the Department of Transportation and Development shall be responsible for transmitting a report of the committee's recommendations for needed revisions to the state polices of each agency represented and a copy of the transportation provider inventory to the governor and the appropriate legislative committees no later than one year from the effective date of this order.

IN WITNESS WHEREOF, I have hereunto set my hand officially and caused to be affixed the Great Seal of the State of the Louisiana, at the Capitol, in the City of Baton Rouge, on this twenty-eighth day of May, 1992.

Edwin Edwards  
Governor

ATTEST BY  
THE GOVERNOR  
Fox McKeithen  
Secretary of State

#### EXECUTIVE ORDER EWE 92-39

WHEREAS, the Cash Management Improvement Act of 1990 Public Law 101-453 was enacted by the One Hundred First Congress of the United States of America; and

WHEREAS, the purpose of the Act is to ensure greater efficiency, effectiveness and equity in the exchange of funds between the federal government and the states; and

WHEREAS, each state is required to sign an agreement with the Secretary of the Treasury following proposed rules as prescribed in 31 CFR Part 205, *Federal Register* dated March 23, 1992; and

WHEREAS, the agreement must be completed no later than the effective date October 24, 1992; and

WHEREAS, the Cash Management Review Board composed of the state treasurer, the legislative auditor, and the commissioner of administration is directed by the legislature to approve the cash management policies and procedures adopted by each state agency; and

NOW THEREFORE I, EDWIN W. EDWARDS, Governor of the State of Louisiana, do hereby issue following executive order:

SECTION 1: The Cash Management Review Board is authorized to prepare an interim agreement to be signed by myself for the purpose of committing the state to the regulations in the most equitable and favorable manner.

SECTION 2: All state departments, agencies, boards, commissions, and officers of the state which are subject to



this Act are hereby directed to cooperate fully with the Cash Management Review Board in implementing the provisions of this executive order.

SECTION 3: The provisions of this executive order are effective upon signature.

IN WITNESS WHEREOF, I have hereunto set my hand officially and caused to be affixed the Great Seal of the State of Louisiana, at the Capitol, in the City of Baton Rouge, on this twenty-ninth day of May, 1992.

Edwin Edwards  
Governor

ATTEST BY  
THE GOVERNOR  
Fox McKeithen  
Secretary of State

# Emergency Rules

## DECLARATION OF EMERGENCY

Department of Education  
Board of Elementary and Secondary Education

Computer Literacy Ruling

The Board of Elementary and Secondary Education, at its meeting of May 28, 1992, exercised those powers conferred by the Administrative Procedure Act R. S. 49:953(B) and agreed to allow Computer Literacy to be an elective at the option of the local education agency. As a result of this action, Standard 2.090.07 of Bulletin 741 is deleted.

For clarification, Standard 2.090.07 of Bulletin 741 which has been deleted, read: "By completion of the eighth grade, students shall have received the equivalent of one semester of instruction in Computer Literacy."

Emergency adoption of this ruling is necessary in order for the LEA's to plan their Program of Studies and adjust student schedules prior to the 92-93 school year. Effective date of emergency rule is May 28, 1992.

Carole Wallin  
Executive Director

## DECLARATION OF EMERGENCY

Department of Education  
Board of Elementary and Secondary Education

Revisions to Bulletin 1895, Model Career Options Program (MCOP) Guide FY 92-93

The Board of Elementary and Secondary Education, at its meeting of May 28, 1992, exercised those powers conferred by the Administrative Procedure, Act R.S. 49:953(B) and approved revisions to Bulletin 1895, Model Career Options Program (MCOP) Guide, FY 92-93.

Emergency adoption is necessary in order for revised Bulletin 1895 to be distributed to the MCOP teachers so they will have essential information for implementation of the MCOP for the 1992-93 school year. Effective date of this emergency rule is June 20, 1992.

### Overview

Creating a workable career options model and developing policies and guidelines to meet effectively the purposes of the Louisiana Model Career Options Program (MCOP) as intended by the legislation was a complex task. Career Option models and job enlargement programs for teachers in other states were carefully researched and a workable Louisiana model was defined. The program and guidelines that are summarized in this document were defined by taking into consideration successful components and strategies of career models from other states, the results of the 1989-90 and 1990-91 Louisiana MCOP pilots and the concerns and needs of Louisiana teachers, administrators, students and the public. The guidelines for 1992-93 were further revised to include recommendations from the MCOP Strategic Planning Team composed of MCOP teachers, local education agency (LEA) MCOP contact persons, an LEA principal, and a Regional Service Center (RSC) director; the MCOP Advisory and Oversight Committees; and other MCOP teachers, their principals, and LEA MCOP contact persons throughout the state.

The MCOP legislation mandates the creation of a statewide MCOP Advisory Committee by the Louisiana Department of Education (LDE) to advise on the development and implementation of the MCOP. The composition and the manner of selection of the statewide MCOP Advisory Committee are stated in R.S. 17:3903 as follows:

The advisory committee shall be appointed after receiving nominations from the professional organization listed in this Paragraph and shall consist of but not be limited to one member from each such professional organizations.

- (a) Louisiana Federation of Teachers
- (b) Louisiana Association of Educators
- (c) Louisiana Association of School Executives
- (d) Louisiana Association of Principals
- (e) Louisiana School Boards Association
- (f) Louisiana School Superintendents
- (g) Louisiana School Supervisors Association
- (h) Louisiana Department of Education
- (i) Associated Professional Educators of Louisiana
- (j) Louisiana Chapter of the National Association for the

Advancement of Colored People

- (k) The State Parent Teacher Association

The statewide MCOP Advisory Committee has met regularly to guide the development of the MCOP.

Four categories of career options have been established. For each year that an eligible teacher elects to participate in MCOP, he/she may choose a specific career option for a given fiscal year and receive additional compensation for his/her participation. An overview of the options follows; a more comprehensive description of the career options and specific MCOP teacher involvement opportunities are included later. The four options are as follows:

**Career Option One: Teacher-to-Teacher Interaction**

The MCOP teacher works with other teachers in one of two ways:

1. The MCOP teacher, in a *mentor* role, assists a new teacher. The intent is to capitalize on the knowledge and expertise of experienced teachers to nurture, guide, assist and support teachers entering the profession.

2. The MCOP teacher, in a *peer consultant* role, works with experienced teachers. The intent is to address a broad range of teacher needs on a request basis.

**Career Option Two: Teacher-to-Student Interaction**

The MCOP teacher provides supplemental instruction programs for students, e.g., enrichment or remediation.

**Career Option Three: Teacher-to-School/School District**

The MCOP teacher works with faculty within one or more given schools or at a school district level in one of two ways:

1. The MCOP teacher, in a *staff developer* role, facilitates the growth of professional knowledge/skills of faculty.

2. The MCOP teacher, in a *curriculum developer* role, works to enhance the coordination and enrichment of curricula within a school or school district.

**Career Option Four: Combination or Combination/ Coordinator**

The MCOP teacher, in a *combination* role, chooses any two or three of the following roles: mentor, peer consultant, supplemental instruction, staff developer, curriculum developer, or MCOP coordinator. The MCOP teacher, in a *coordinator* role, may work within a school, at the school district level, or at a statewide level to facilitate the coordination and operation of the MCOP. The MCOP teacher shall have the approval of the LEA MCOP contact person to be a coordinator.

Although primarily Career Options Three and Four are designed to cross school or school district lines, teachers in any career option, especially peer consultant and MCOP coordinator, may serve as resources or provide assistance to other schools or school districts.

**Teacher Eligibility Requirements**

R.S. 17:3902 states that any teacher who meets the following eligibility requirements may participate in the MCOP:

1. holds a valid renewable professional certificate, as provided in R.S. 17:3891 (A)(2);

2. has not less than seven years of teaching experience;

3. holds at least a master's degree; and

4. had a superior evaluation on his most recent evaluation pursuant to R.S. 17:3881-3887, i.e., the statewide teacher evaluation program.

R.S. 17:3903 also requires that: a participating teacher...continues to be classified as a teacher.

A teacher within an LEA may assume a different job description from that he/she had when first determined eligible for MCOP. That teacher may continue in MCOP if the

LEA continues to classify him/her as a teacher and he/she has a regular teaching assignment.

Participation is on a voluntary basis. In order to be considered for MCOP participation, a teacher who meets the eligibility requirements must indicate a desire to participate in MCOP for a given school year by sending a completed Career Option Selection Form to the LDE Bureau of Professional Accountability by the first Friday in September. The MCOP Career Option Selection Form is located in Appendix C. The eligible teacher will have the opportunity to participate in MCOP each school year during the span of time, e.g., five years, indicated on the renewable professional certificate issued by the LDE Bureau of Teacher Certification at the conclusion of the teacher's most recent state teacher evaluation. However, teachers who are on sabbatical are not eligible to participate during the school year in which they are on sabbatical.

**Procedures for Teachers without a Master's Degree or Seven Years Teaching Experience**

Current MCOP teacher eligibility requirements are defined in R.S. 17:3902-3903; actual MCOP implementation is contingent upon both the content of the MCOP legislation and final budgeted amounts determined by the legislative process. In some instances teachers may not have the necessary years of teaching experience or meet the minimum degree requirements at the outset of the MCOP implementation cycle. The following procedures deal with these situations.

**Teachers without a Master's Degree**

A teacher who holds a valid renewable professional certificate, has at least seven years of teaching experience and has a superior rating on his/her most recent state teacher evaluation, but has not yet received a master's degree, may choose to participate in MCOP after receiving a master's degree if that occurs within the time frame of his/her most recent renewable professional certificate and if sufficient funds are made available from the Louisiana legislature for payment of the compensation of such teachers. If an official transcript indicating the awarding of the master's degree has been received in the LDE Bureau of Teacher Certification by the first Friday in September, the teacher is eligible to participate in MCOP during that school year. The teacher seeking to participate must indicate his/her willingness to participate in MCOP by sending a completed Career Option Selection Form to the LDE Bureau of Professional Accountability by the first Friday in September. If the master's degree is awarded during the summer, the teacher has the responsibility of sending a completed Career Option Selection Form to the LDE Bureau of Professional Accountability by the first Friday in September, and of notifying the LDE Bureau of Teacher Certification immediately so that the teacher can be added to the MCOP-Teacher Certification computer system list of eligible participants.

**Teachers without Seven Years of Teaching Experience**

A teacher who holds a valid renewable professional certificate, holds at least a master's degree, has a superior rating on his/her most recent state teacher evaluation, but does not yet have the prerequisite seven years of teaching experience, may choose to participate in MCOP after he/she has completed the seven years of teaching experience if that occurs within the time frame of his/her most recent renewable professional certificate and if sufficient funds are made available from the Louisiana legislature for payment of

the compensation of such teachers. In-state as well as out-of-state and private school teaching experience in grades pre-kindergarten through 12 count toward the seven year requirement. The teacher's LEA personnel office will verify the number of years of actual teaching experience. After verification of seven years of teaching experience, the teacher is eligible to participate in MCOP at the start of the school year commencing the teacher's eighth year of teaching. The teacher has the responsibility of notifying the LDE Bureau of Professional Accountability of his/her intent to participate in the MCOP by sending a completed Career Option Selection Form to the LDE Bureau of Professional Accountability by the first Friday in September.

#### **Teachers Receiving Additional Degrees**

Once a master's, plus thirty, specialist, or doctoral degree is awarded, the teacher has the responsibility of notifying the LDE Bureau of Professional Accountability and the LDE Bureau of Teacher Certification so that the teacher's compensation for the following school year will reflect the change in status. Receipt of any additional degrees must be recorded in the LDE Bureau of Teacher Certification before the first Friday in September in order for the MCOP teacher to receive MCOP compensation for the degree for that school year.

#### **Teacher Selection of Model Career Options**

Every local public school superintendent, school principal, LEA MCOP contact person and eligible MCOP teacher will receive a copy of the current *Louisiana Model Career Options Program Guide*, which describes all the career options. The MCOP teacher will select a Career Option in consultation with his/her local school principal and/or central office personnel. The MCOP Career Option Selection Form is located in Appendix C. The MCOP teacher's choice of Career Option will be honored unless the option is not available, e.g., the MCOP teacher may not be a mentor because no new teacher is assigned to the school. This process assumes that:

1. each career option is of the same value and weight as any other career option because no hierarchy is established;
2. the process of involving individuals in the selection of and carrying out of a career option will foster a sense of ownership and promote teacher professional growth; and
3. teachers will self-select those career options in which they have expertise. The nature and scope of career Option involvement will evolve as teachers take on leadership roles and use the expertise they have gained.

The process of selecting a career option by the MCOP teacher will be guided by the stated purpose of R.S. 17:3872 to concentrate "resources on improving the quality in the public school classroom." Specific criteria for the selection are:

1. the career option should be professionally/ personally satisfying to the MCOP teacher; and
2. the specific MCOP involvement should contribute to the accomplishment of either school-based or district-level goals and ultimately to the increased academic achievement of students.

#### **Termination and Change of Options**

The MCOP teacher will participate in the chosen career option for the entire school year. The MCOP teacher may, due to extenuating circumstances, discontinue MCOP participation during the school year. If this occurs, the school principal and LEA MCOP contact person must be notified, and

compensation will be prorated for the period of actual participation. The Termination of MCOP Participation Form is located in Appendix D. A copy of the approved Termination of MCOP Participation Form shall be forwarded to the LDE Bureau of Professional Accountability by the LEA MCOP contact person.

The MCOP teacher may select a different career option during the school year due to extenuating circumstances only. To gain permission to change an option, a petition must be submitted to the school principal and the LEA MCOP contact person for approval. The school principal and the LEA MCOP contact person will decide jointly, and the principal will respond within 30 working days of receipt of the petition. The MCOP Teacher Petition Form is located in Appendix E. A copy of the approved MCOP Teacher Petition Form shall be forwarded to the LDE Bureau of Professional Accountability.

#### **Availability of Career Options**

In some instances the first career option choice of the MCOP teacher may not be available in a school, i.e., a teacher may not have a mentor option because no new teacher is assigned to the school. The teacher then selects another career option. In other instances, more than one eligible teacher may want the same career option, e.g., two teachers want to be a mentor and only one new teacher is assigned to the school. Through a negotiation process the teachers and the principal in his/her role as school instructional leader will attempt to resolve the conflict. The purpose of improving instruction for Louisiana's students should be kept foremost in mind when trying to reach an equitable decision. If a conflict persists despite the best efforts of all involved persons, a petition may be submitted to the school principal and the LEA MCOP contact person and sent to the LDE Bureau of Professional Accountability for forwarding to the statewide MCOP Advisory Committee for resolution of the dilemma. The statewide MCOP Advisory Committee will respond within 30 working days of receipt of the petition. The MCOP Teacher Petition Form is located in Appendix E.

#### **Grievance Procedure**

Grievances concerning the MCOP shall be handled through the LEA's grievance policy.

#### **The Principal's Role in the MCOP**

The principal's role in the MCOP is that of supporter, facilitator, and monitor. Some of the ways the principal assists the MCOP teacher and assures that the MCOP works beneficially to provide additional service in his/her school are the following:

##### **Supporter:**

1. is available to the MCOP teacher for consultation concerning the selection of his/her career option;
2. helps the MCOP teacher see solutions to problems that may occur in the implementation of his/her career option program;
3. encourages the faculty and/or students to participate in the MCOP teacher's program; and
4. communicates with the MCOP teacher regarding the implementation of the career option.

##### **Facilitator:**

1. at the beginning of the school year, explains the MCOP to the faculty and makes sure that each faculty member understands the role of the MCOP teacher, stressing that it is one of service, not of evaluation nor administration;
2. negotiates with all parties involved to arrive at an

amicable solution if more than one teacher wants the same career option and, because of unavoidable circumstances, not all may perform that option;

3. assists the MCOP teacher in scheduling his/her MCOP activities during and beyond the regular school day; and

4. with the LEA MCOP contact person, approves a necessary change in the MCOP teacher's career option selection.

**Monitor:**

1. helps ensure that each MCOP teacher's activities supplement, but do not supplant, regular school offerings and involve professional tasks not typically assigned to a given teaching position;

2. reviews the MCOP action plans/proposals from his/her MCOP teachers;

3. along with LEA central office personnel, approves or disapproves released time and/or the extended school day or week schedule for the MCOP teacher;

4. supervises each MCOP teacher's career option involvement;

5. signs logs of each MCOP teacher's ongoing MCOP activity involvement which are then sent to the LEA MCOP contact person at the end of each month.

**The LEA MCOP Contact Person's Role in the MCOP**

The MCOP contact person is appointed by the LEA superintendent to facilitate the MCOP implementation within the LEA. Specific functions of the MCOP contact person within the district include the following:

1. acts as a contact person for the LDE for the MCOP implementation;

2. shares information with principals and MCOP teachers about MCOP guidelines and operating procedures;

3. maintains accurate records about MCOP teacher involvement;

4. ensures that the MCOP teacher's monthly logs are input into the Superlink or ECNOL computer system at the LEA;

5. reviews and approves MCOP action plans/proposals from local schools regarding the services of the MCOP teachers. The LEA MCOP contact person or his/her representative notifies the MCOP teacher within thirty days of receipt of the action plan/proposal of approval of the action plan/proposal or the need for amendment;

6. with the local school principal, approves a necessary change in the MCOP teacher's career option selection and notifies the LDE Bureau of Professional Accountability;

7. suggests linkages for MCOP services among schools; and

8. suggests linkages for MCOP services between school and district-wide efforts.

**The RSC Director's Role in the MCOP**

The RSCs play a significant role in the coordination and implementation of services provided by the LEAs to teachers and students. Under the direction of the RSC director, the RSC provides services to LEAs that assist in the implementation of educational initiatives. Responsibilities of the RSC director in relation to MCOP implementation include the following:

1. provides information to LEA personnel, parent and civic groups, and the general public regarding the MCOP;

2. actively solicits opportunities to provide information on the MCOP to civic and public groups;

3. coordinates MCOP staff development within the RSC area at the request of the LEAs; and

4. solicits ways to facilitate communication among the LEAs regarding the MCOP.

**Descriptions of the Model Career Options**

Any specific MCOP-related activities involving the MCOP teacher should be designed in intent and implementation to supplement rather than supplant the LEA's regular school offerings. For example, the MCOP teacher may work in a mentor role in the LEA if that position would ordinarily not be authorized and funded with LEA funds. Similarly the MCOP teacher may provide instructional programs for students during an extended school day if that instruction supplements rather than supplants LEA instructional programs. In the absence of state or federal guidelines pertaining to the particular situation, the school principal, LEA MCOP contact person, and/or LEA superintendent must decide and document whether the proposed instructional program supplements rather than supplants.

Specific information about each career option is presented. Job descriptions corresponding to the options are located in Appendix F. Proposal forms for the options are located in Appendix I. The LEA MCOP contact person or his/her representative notifies the MCOP teacher within 30 days of receipt of the proposal of approval of the action plan/proposal or the need for amendment.

**Career Option One: Teacher-to-Teacher Interaction**

**Mentor Teacher:**

The MCOP teacher works in the role of a mentor. A mentor is an exemplary experienced teacher who provides personal support, technical assistance and guidance for an intern, i.e., a teacher with less than 90 days actual classroom teaching experience. Please note that a student teacher cannot serve as an intern. The intern voluntarily agrees to work in the mentoring relationship. When possible, a mentor and an intern are matched by grade level and subject matter expertise. The mentor is neither an evaluator nor a supervisor, but rather offers the intern opportunities to share and to learn with an experienced colleague. The exchange between the mentor and the intern is confidential; information shared between them is not to be used in any formal evaluation.

It is the job of the mentor to provide support and collegiality while helping the beginning teacher learn more about the complex art and science of teaching. Important areas in which the mentor extends assistance to the intern include the following:

1. personal support — offers guidance and feedback; encourages the intern's efforts to try his/her own ideas;

2. technical assistance — helps the intern with planning for teaching, classroom and behavior management, ways to enhance teaching/learning of students and may conduct informal classroom observations;

3. professional development — shares information about resources and opportunities for professional involvement.

**Peer Consultant:**

The MCOP teacher works in the role of a peer consultant with experienced teachers to offer on-site assistance and collaboration. Typically, the MCOP teacher works with more than one experienced teacher who voluntarily agrees to work with the MCOP teacher. However,

in those instances in which the experienced teacher would benefit from an in-depth peer relationship, e.g., the experienced teacher is new to a discipline, new to a school system, or new to a grade level, the MCOP teacher may work in an in-depth peer relationship and still be available to work with other experienced teachers as a peer consultant. Professionals work together with the goal of refining or acquiring teaching strategies and applying them effectively in teaching and learning situations. The peer consultant is neither an evaluator nor a supervisor. The exchange between the peer consultant and the experienced teacher is confidential; information shared between peers is not to be used in any formal evaluation. A supportive and positive working relationship must exist between peers so that educators may work together to accomplish particular goals.

Functions related to the work of a peer consultant include the following:

1. resource linker — linking teachers with common interests or needs, locating or sharing teaching materials;
2. facilitator — collaborating with a single teacher or several teachers on expanding their repertoire of teaching/content strategies and classroom management ability; and
3. colleague/coach — working cooperatively through modeling a given teaching strategy and participating in the preconference goal setting/observation/conference and feedback cycle of the coaching process with a peer.

The process of peer consulting may occur at the initiation of another teacher in conjunction with the statewide teacher evaluation program or after any staff development training.

#### **Additional Information about the Coaching Process**

Peer coaching is a confidential process through which teachers share their expertise and provide one another with professional companionship, feedback, support and assistance for the purpose of refining present skills, learning new skills and/or solving classroom-related problems.

The essence of effective coaching is a positive and supportive working relationship between the peer coach and teacher so that they may work together to accomplish particular educational goals. The essential elements of effective coaching include the following.

1. Confidentiality. The coach needs to understand that the information shared during the coaching process should not make its way into any formal evaluation or to other colleagues.
2. Comfort Level. The coach is responsible for establishing the "accepting climate" in order to dispel anxiety that might arise from a classroom visitation. Time used to develop this comfort level also builds trust.
3. Skill Application Focus. The role of the coach is to focus on the application of one or more specific teaching and learning strategies to improve classroom effectiveness. Individual skills are targeted, rather than dealing with the overall performance of a teacher.

The functions of the coach include providing personal facilitation to the teacher. He/she offers affirmation so that the teacher feels supported through the change process.

The coach also provides feedback to the teacher on specific information related to teaching. The coach may help the teacher adapt and apply a skill in a given lesson. The ultimate goal is to have the teacher incorporate the knowledge/skill into his/her active teaching repertoire without

any further assistance from the coach.

#### **Career Option Two: Teacher-to-Student Interaction**

The MCOP teacher provides supplemental instruction programs for students either outside scheduled class time during the school day (beyond the regular teaching load) or for an extended school day, e.g., before or after school; or school week, e.g., Saturday. The content focus of the instruction may be either enrichment or remediation and should be based on identified high priority student needs.

#### **Sample Activities for the Supplemental Instruction**

The following ideas are examples of instructional situations that could be provided through Career Option Two. These involve the MCOP teacher offering supplemental instruction to students:

1. enrichment programs and projects for all students, e.g., a writer's workshop, an environmental education program;
2. enrichment programs for gifted students, e.g., computer education;
3. remediation programs and projects for all students according to their needs, e.g., algebra reinforcement;
4. pre-kindergarten and pre-first grade readiness programs;
5. enrichment or remediation programs in day-care centers operated by the local school district;
6. programs which provide high school students with job-related literacy training; or
7. instructional programs for college entrance exams.

In keeping with the intent of the legislation, every supplemental instruction program shall be designed and directed toward improving the quality of teaching and learning in the public school classrooms in Louisiana. The supplemental instruction program may be designed so that the MCOP teacher includes time for planning and preparation of the supplemental lessons. However, the instructional program should include two thirds to three fourths or more of the required 100 hours as teacher-to-student contact, or direct instruction of the students.

#### **Career Option Three: Teacher-to-School/School District Staff Developer:**

The MCOP teacher works in the role of a staff developer within one or more given schools, at a school district level or at a statewide level. The purpose of this role is to facilitate the growth of professional knowledge/skills of faculty so that instructional programs may be strengthened. The staff developer works with the principal, supervisors and faculty to determine appropriate programs that reinforce school improvement goals.

The following ideas illustrate staff development activities that could incorporate the talents of the MCOP teacher:

1. arrange for and conduct training sessions on a variety of teaching models or educational initiatives for faculty and staff, i.e., teaching as an interactive process; providing multisensory activities for dyslexic students;
2. arrange for and conduct workshops that keep teachers informed about their disciplines and about discipline-specific approaches to teaching, i.e., reading comprehension strategies in content areas;
3. arrange for and coordinate staff development meetings for MCOP teachers within the LEA;
4. arrange for and offer inservice sessions on the assessment instrument used in the Louisiana statewide

teacher evaluation program and on effective teaching-learning strategies that increase the likelihood of active student involvement in learning;

5. arrange for and offer teacher and staff training on developing critical thinking abilities of students;

6. conduct orientation activities related to new instructional programs and methods of instruction or grouping, e.g., new science program, cooperative learning;

7. arrange for and teach workshops on a variety of "how to" topics, e.g., how to care for and use audiovisual equipment and materials, how to use a personal computer;

8. work with teachers to improve classroom management procedures, to form learning groups, and to use time-saving instructional techniques and materials;

9. work with teachers and administrators to plan for regular monitoring and assessment of individual student performance; or

10. conduct parent workshops to increase parental support of and knowledge about school programs.

#### **Curriculum Developer:**

The MCOP teacher works in the role of curriculum developer within one or more given schools, at a school district level or at a statewide level. The purpose of this role is to enhance the coordination, development and enrichment of curricula. The work of the curriculum developer complements and assists that of the principal and supervisors.

The following ideas illustrate curriculum development activities that could incorporate the talents of the MCOP teacher:

1. coordinate across-grade-level planning to promote appropriate sequencing of learning activities and level of learning required of students;

2. prepare new teacher orientation materials, e.g., survival kits;

3. prepare demonstration units for developing student thinking skills;

4. prepare curriculum updates or practical ways to incorporate sound educational practices within the classroom; or

5. develop content for parental involvement activities.

#### **Career Option Four: Combination or Combination/Coordinator Combination:**

The MCOP teacher may assume a combination of roles appropriate to the talents and interests of the teacher and the needs of the school or school district. The Career Option Four teacher may choose a combination of any two or three of the following roles:

1. mentor

2. peer consultant

3. supplemental instruction

4. staff developer

5. curriculum developer

6. MCOP coordinator

A combination of roles will allow the MCOP teacher to address specific needs of the students, faculty, or school district as they arise. A role combination will also allow the MCOP teacher more flexibility in designing his/her individual MCOP program. Some examples of possible combinations include the following:

1. curriculum developer — supplemental instruction - staff developer: develops curriculum; field tests with students in a short-term supplemental instruction program;

provides faculty inservices sharing how to use the curriculum;

2. mentor — supplemental instruction: provides in-depth mentoring to intern during fall semester; once intern becomes more independent, provides supplemental instruction program to students in the spring semester;

3. peer consultant — staff developer: provides assistance to experienced teachers through peer coaching; provides workshops to inform teachers about the benefits of peer coaching and to train them to become peer coaches themselves.

#### **MCOP Coordinator Role:**

The MCOP coordinator may work within a school, at the school district level, or at a statewide level. The purpose of this role is to facilitate the coordination, communication and operation of the MCOP as necessary. The MCOP coordinator may assist the principal(s) and/or LEA MCOP contact person in fulfilling his/her responsibilities or may assist MCOP teachers by coordinating MCOP activities throughout the school district.

The following ideas illustrate some kinds of duties that the MCOP coordinator may assume:

1. collect the MCOP teachers' monthly logs for submission to the LEA MCOP contact person at the end of each month;

2. assist the LEA MCOP contact person in conducting the orientation, mid-year, and end-of-the-year MCOP meetings;

3. set up a networking system for MCOP teachers within the LEA to share ideas and resources;

4. organize a committee of MCOP teachers to review the MCOP teachers' action plans/proposals;

5. arrange meetings of MCOP teachers to brainstorm or problem-solve as needed.

The MCOP teacher who chooses the coordinator role shall choose another role — mentor, peer consultant, supplemental instruction, staff developer, or curriculum developer — to supplement the role. The coordinator role is not designed to be the sole option for the MCOP teacher's individual program.

#### **Guidelines for Types of Activities to Include in Career Option Work**

Participation in accreditation studies can not be included in MCOP work because an MCOP teacher receiving compensation for such activities would supplant an existing function.

Principal training programs are for potential administrators. One purpose of the MCOP is to keep talented teachers in the classroom. Therefore principal training activities can not be included.

Offering additional assistance to college students in a methods course or to student teachers is considered a university function. Therefore, while a worthwhile goal, such assistance can not be included in the MCOP teacher's program. Also, MCOP is designed to focus assistance toward those who are already in the teaching profession, whether interns or experienced.

Such roles as department chairperson and elementary grade-level leader have been institutionalized; therefore, they can not be used as a career option role.

#### **Released Time Policy/Extended Work Day or Week Policy**

R.S. 17:3903 includes the following requirement regarding released time for the MCOP teacher and the provision for an extended work day or work week:



"Each such option shall be developed so that a participating teacher continues to spend at least 60 percent of classroom hours at his regular teaching assignment...The model, however, may provide for an extension of the teacher's normal work day or work year."

Therefore, MCOP teachers may be, but are not required to be, released for up to 40 percent of the classroom hours of a regular teaching assignment to participate in career options. The MCOP allows for up to 40 percent released time, but the options do not necessarily have to include released time. Authorization is also provided for the MCOP teacher to enter into an extended school day or week arrangement in order to participate in career options. The central office personnel and/or principal will approve or disapprove the released time and/or extended school day or week schedule for the MCOP teacher.

#### Released Time Possibilities

At times it is beneficial for the MCOP teacher to work directly with other teachers during classroom hours, and provision for substitute teachers may not be available. Some scheduling options that allow for released time and that rely on cooperative planning efforts of other school personnel follow:

1. school administrators, e.g., the principal and/or assistant principal, may make arrangements for released time through use of a school-based substitute teacher or may teach a class for the MCOP teacher;
2. college of Education faculty may teach a class; such faculty members may be a member of the support team for the intern teacher;
3. at the beginning of the school year, the scheduling of planning periods could be coordinated to allow greater opportunity for teachers to collaborate;
4. while enrichment/ancillary teachers, e.g., music, foreign language, guidance counselor, physical education, art, Chapter I, are working with the MCOP teacher's class, the MCOP teacher is available to assist another teacher;
5. reciprocal, flexible grouping arrangements between classrooms could permit an occasional open period for a given teacher; or
6. during his/her designated planning/preparation period the MCOP teacher could work with another teacher in the elementary, middle or high school level. The MCOP teacher would have to plan or complete work for his/her own class after the regular school day.

If additional appropriations are made available from the Louisiana legislature for expense money for the MCOP teacher, he/she may use the expense money to pay the salary of a substitute teacher or, if the MCOP teacher's class is combined with another teacher's class, to pay the other teacher for the additional class.

#### Extension of the MCOP Teacher's Work Day or Work Week

MCOP teacher involvement in Career Option One, i.e., mentor or peer consultant role, assumes that the MCOP teacher will assume extra duties/responsibilities during and beyond the regular school day or school week. This would result in an extension of the teacher's regular school day. For example, a mentor might confer with an intern during a planning period; the mentor then would have to plan for his/her own class after the regular school day. Or a mentor might confer with an intern after the end of the regular school day.

MCOP teacher involvement in Career Option Two, i.e.,

teacher-to-student interaction, will require the scheduling of the supplemental instruction during and beyond the regular school day or the school week. For example, during a teacher's planning period, he/she might schedule a study skills course. Whenever the instruction is offered, it must be supplemental and not supplant other course offerings.

MCOP teacher involvement in Career Option Three, i.e., staff developer or curriculum developer, assumes extra duties/responsibilities during and beyond the regular school day or school week. This may occur on a scheduled basis beyond the regular school day or the school week. For instance, staff development services may be offered during a block of time outside regular classroom hours and on Saturdays.

#### Compensation

R.S. 17:3904 addresses the topic of compensation for the MCOP teacher as follows:

A. Each teacher who participates in the program provided in this Subpart shall receive additional compensation to be paid by the state....

B. The compensation required in Subsection A of this Section shall be in an amount equal to not less than 10 percent of the amount such teacher receives as minimum salary from the state nor more than 20 percent of such amount.

C. Such additional compensation shall be paid to a teacher only for the time he participates in this program and no obligation to continue to pay such additional compensation shall extend beyond such participation whether termination of participation is caused by the teacher or some other cause.

The assumptions which govern the configuration of the compensation plan are:

1. MCOP provides a vehicle for teachers to attain greater professionalism through exploring new avenues in education;
2. for the additional professional duties which they assume, MCOP teachers should receive additional compensation;
3. an increase in professional opportunities and teacher recognition is related to an increase in teacher satisfaction;
4. the concept of job enlargement provides extra pay for extra work; greater professionalism rather than job standardization is the focus of MCOP effort; and
5. every Career Option specifies a professional task to be done that is not typically assigned to a given teaching position, e.g., mentor teacher, building-based staff developer.

An appropriation request for the MCOP is submitted annually to the Louisiana Legislature for funding consideration. The final MCOP appropriation will be determined by the Louisiana legislature, with the substance and form of the MCOP teachers' contracts reflecting the available funds. The parameters of the MCOP compensation plan are as follows:

1. compensation of all MCOP teachers will be uniform for all career options. The amount will be contingent upon legislative allocations. A minimum of 100 hours of MCOP teacher involvement is required. The MCOP teacher submits monthly logs recording the time spent on his/her MCOP program to the school principal who signs each monthly log as verification of the time recorded;

2. As stated in the MCOP law, compensation for MCOP teacher participation shall be in an amount equal to not less than 10 percent of such teacher's state minimum salary nor

more than 20 percent of such amount. The State Minimum Salary Schedule, current Act 659, (Appendix G), contains the state minimum salaries for the fiscal year. For example, at 10 percent a teacher with 10 years of experience and a master's degree would be paid \$1968.90 additional MCOP compensation. At 10 percent a teacher with 25 years experience and a Ph.D. would be paid \$2,602 additional MCOP compensation;

3. The MCOP compensation will cover payment not only for MCOP direct services, but required attendance at MCOP staff development;

4. If additional appropriations are made available from the Louisiana Legislature for the MCOP, the funds will be used appropriately towards expenses related to the implementation of given career options. For example, in Career Option One, a need may exist for released time. The additional money could be used to pay the salary of a substitute teacher or, if the MCOP teacher's class is combined with another teacher's class, to pay the other teacher for the additional class. In Career Option Two, a need may exist for the purchase of instructional materials or expenses related to field trips;

5. In a given fiscal year each LEA will enter into a contract with the LDE for the compensation of each MCOP teacher within the LEA. Monies will be received by the LEAs and distributed to individual MCOP teachers based upon the actual schedule for the delivery of MCOP services by the MCOP teacher; and

6. Receipt of any additional degrees must be recorded in the LDE Bureau of Teacher Certification before the first Friday in September in order for the MCOP teacher to receive MCOP compensation for the degree for that school year.

The following information provides an overview of the important procedures regarding payment of the MCOP teachers:

1. funds will be disbursed from the LDE for receipt prior to the end of each semester in each LEA for the payment of the balance of each MCOP teacher's compensation and the remaining expense money at the end of each semester;

2. each MCOP teacher who has completed a sufficient number of hours will receive the first installment or the balance of his/her reimbursement for MCOP services directly from the LEA at the end of the fall and spring semesters respectively;

3. if an MCOP teacher has not completed the minimum contractual obligation as of May 31, the ending date of the LEA MCOP contract with the LDE, the balance of his/her MCOP compensation will be adjusted to reflect the number of hours completed by the ending date of the contract. The amount of the disbursement from the LDE is based on the assumption that all teachers will complete the minimum contractual obligation. Therefore, if any teacher receives only pro rata payment, the LEA will be required to refund the LDE any unused balance;

4. if additional appropriations are made available from the Louisiana Legislature for the MCOP, the funds will be used appropriately towards expenses related to the implementation of given career options. Each installment of the MCOP teacher's MCOP compensation should include one half of the amount allotted to each MCOP teacher for MCOP expenses. The disbursement of expense money does not require the submission of any receipts by the MCOP teacher. Some examples of possible uses of the MCOP expense

money are as follows: a) in Career Option One, a need may exist for released time. The additional money could be used to pay the salary of a substitute teacher or, if the MCOP teacher's class is combined with another teacher's class, to pay the other teacher for the additional class; b) in Career Option Two, a need may exist for the purchase of instructional materials or expenses related to field trips; and

5. Because the additional services provided by the MCOP teacher do not meet the definition of "Earnable Compensation" in R.S. 17:541(9), neither the employee's nor employer's share of the additional MCOP compensation shall be remitted to the Teacher's Retirement System of Louisiana. Therefore, no deduction for the teacher's retirement shall be made from the MCOP teacher's compensation.

#### **Time Lines for Implementation of MCOP in a Given Fiscal Year**

In order to assure effective implementation of MCOP in a given fiscal year, the following time lines need to be followed:

June: every eligible MCOP teacher receives a copy of the MCOP Guide;

Between June - July: every eligible MCOP teacher decides whether or not to participate in MCOP (See Appendix B: Eligible Teacher's Intent to Participate Form);

The MCOP teacher informs his/her LEA MCOP contact person of intent to participate in MCOP no later than the second Wednesday in July;

MCOP teacher intent to participate is sent to the LDE from the LEA no later than the third Monday in July;

August: MCOP teacher orientation is offered by each LEA;

First Monday in August: the MCOP teacher may begin logging hours;

By the first Friday in September: the MCOP teacher in consultation with his/her principal or central office personnel selects a specific career option in which to participate (See Appendix C: Career Option Selection Form);

Career option choices from the LEA are received in the LDE Bureau of Professional Accountability;

By the first Friday in October: each MCOP teacher in consultation with his/her principal or central office personnel completes an action plan/proposal form and submits it to the LEA MCOP contact person for approval (See Appendix I);

January: a mid-year MCOP teacher meeting is held in each LEA;

May: an end-of-year MCOP teacher meeting is held in each LEA;

By May 31: each MCOP teacher will submit a self-evaluation of his/her individual MCOP program to the school principal who will forward it to the LEA MCOP contact person;

School principals will submit an evaluation of the MCOP work of each teacher at his/her school to the LEA MCOP contact person;

Each MCOP teacher will have completed a minimum of 100 hours of MCOP participation;

By June 30: each LEA MCOP contact person will submit to the LEA superintendent a summary evaluation of the MCOP offerings within the LEA with recommendations for the next school year.

#### **Model Career Options Program Evaluation**

The essence of the MCOP is the provision for recognizing and rewarding teachers for meritorious



performance through their participation in available career options. The delivery of the MCOP must be carefully examined on a consistent basis to assure that it is truly instrumental in carrying out its established purposes. The evaluation strategy will assess the delivery of the MCOP at the LEA level and the impact the program has upon strengthening education and motivating educators in the state.

#### **LEA Evaluation**

The LEA MCOP contact person will have the responsibility for maintaining accurate records about MCOP participants, e.g., MCOP teacher and career option involvement. He/she will also review and compile information from local schools regarding the use of the MCOP teachers. This information will be submitted to the LEA superintendent and will be forwarded to the LDE by June 1 for incorporation in an annual report to be submitted to the State Board of Elementary and Secondary Education (SBESE) and to the State Legislature.

Because the MCOP teachers demonstrated superior performance on the statewide teacher evaluation, it is assumed that they embody the highest standards of professionalism. The MCOP teachers are assigned to a local school; they are evaluated by the local school principal under the provisions of Act 621, R.S. 17:391.5, the Personnel Evaluation Program. Therefore, their career option involvement will come under the supervision of the local school principal.

#### **LDE Monitoring**

The Bureau of Professional Accountability staff of the LDE will periodically monitor the program carried out by the MCOP teachers in local school systems. These efforts will focus on determining compliance with MCOP guidelines and with specified record keeping requirements. Each MCOP teacher will be required to maintain a log of ongoing MCOP activity involvement. Appendix H contains the MCOP functions log for the career options. The school principal's signature will be required on each log. The log will then be sent to the LEA MCOP contact person at the end of each month. The LDE will periodically monitor the logs.

#### **Program Impact Evaluation**

The overall statewide impact of the MCOP will be evaluated to assess accomplishment of the goals and purposes established in law and policy. The LDE will assess the overall impact of the program on the state. The MCOP results and evaluation will be shared with LEAs, the SBESE, the Louisiana Legislature and interested citizens.

### **Appendix F**

#### **Job Description**

##### **Career Option One: Mentor Teacher**

**Purpose:** The mentor teacher provides direct assistance and support to one or more first-year teachers (interns). As a result, the intern is helped to become more effective in the teaching role.

##### **Illustrative Tasks:**

1. Meet with the intern to discuss local procedures on grading, student behavior management, parent conferences, etc.;
2. Demonstrate/model sound teaching techniques and discuss same with the intern;
3. Observe the intern teaching and provide feedback

on performance;

4. Guide the intern to resources for improvement of teaching techniques, instructional planning, etc.;
5. Confer with the intern after observation and/or evaluation activities; and
6. Engage in problem-solving activities with the intern to improve instruction.

##### **Desired Knowledge/Skills/Attitudes:**

1. Willing to spend time with the intern;
2. Knowledgeable of effective instructional research;
3. Familiar with state and local performance evaluation policies and requirements;
4. Proficient in the use of problem-solving strategies;
5. Patient, self-confident, empathetic and committed to working with adults; and
6. Willing to schedule sufficient time with the intern to develop the necessary knowledge, skills and attitudes.

#### **Job Description**

##### **Career Option One: Peer Consultant**

**Purpose:** The peer consultant works with peer professionals to provide assistance and to help improve teaching effectiveness. The assistance is offered in a supportive, non-evaluative, collegial manner.

##### **Illustrative Tasks:**

1. Help teachers interpret the results of state/local evaluation and identify areas of strength and need;
2. Work with teachers to identify resources for performance improvement;
3. Conduct informal observation and provide focused feedback;
4. Provide support to other teachers;
5. Model strategies/techniques for improved instruction;
6. Review lesson plans and propose revisions, as appropriate; and
7. Provide/participate in professional growth activities.

##### **Desired Knowledge/Skills/Attitudes:**

1. Knowledgeable about effective instructional research and practice options;
2. Able to exhibit the personal/professional qualities associated with success in working with adults;
3. Informed about state and local evaluation requirements;
4. Skilled in problem-solving, observation and analysis of teaching, and providing feedback; and
5. Able to work cooperatively in a positive, professional manner.

#### **Job Description**

##### **Career Option Two: Teacher in Extended Day, Week or School Year**

**Purpose:** The teacher implements an educational program that is responsive to student needs and that meets educational goals and objectives in an organizational context of an extended school day, week or year. The class(es) will be conducted in accordance with policies adopted by the local board of education and with regulations and procedures of the district.

##### **Illustrative Tasks:**

1. Plan and prepare for instruction, including
  - a. develop goals and objectives for course of study;
  - b. adapt curriculum to student needs;
  - c. recognize and plan for individual differences.
2. Provide group and individual instruction, including

a. guide instruction toward achievement of goals and objectives, using knowledge of subject matter, and student needs;

b. implement available course of study;

c. encourage students to take pride in any degree of achievement toward objectives;

d. develop instruction program considering students' individual strengths and needs.

3. Evaluate the outcomes of the instruction, including

a. measure student achievement using goals and objectives;

b. use a variety of evaluative tools to determine student understanding and application;

c. use conferences and/or written reports to inform students and/or parents of progress.

4. Implement sound classroom management, including

a. develop with students standards of classroom behavior and procedure;

b. maintain student behavior in the classroom;

c. take reasonable precautions to protect students, equipment, materials and facilities.

5. Fulfill procedural responsibilities, including

a. maintain accurate, complete and correct records as required by administrative regulation, parish and LDE policy, e.g., class rolls, reports as required; and

b. perform duty assignments.

**Desired Knowledge/Skills/Attitudes:**

1. Meet certification requirements as set forth in Louisiana Standards for State Certification of School Personnel for particular course of study;

2. Exhibit enthusiasm, dependability, flexibility, fairness, unbiased attitude;

3. Able to communicate effectively with students; acceptable speech and grammar;

4. Display openness in examining teaching techniques;

5. Discreet in handling information regarding students gained in the course of professional services; and

6. Participate in activities and organizations that facilitate professional growth and development.

#### **Job Description**

##### **Career Option Three: Staff Developer Role**

**Focus:** School or school district basis

**Purpose:** Facilitate the growth of professional knowledge/skills of faculty so that instructional programs may be strengthened.

**Effective Practices: Planning the Staff Development:**

1. Clarify program goals and objectives based on the results of a needs assessment;

2. Involve faculty and administrators in the selection of staff development activities and design of programs related to school improvement goals;

3. Determine participants' skills and knowledge and incorporate their background into the staff development program;

4. Locate resources (human, programmatic) needed to build faculty's capacity for achieving program goals; and

5. Organize and arrange for staff development activities (speakers, materials, space, refreshments, etc.).

**Implementation of the Staff Development:**

1. Facilitate/present staff development activity for new program; vary the activities to promote individual and group learning;

2. Provide print resources to faculty as requested; and

3. Model/demonstrate innovative practices during the staff development program.

**Follow-up to the Staff Development:**

1. Model/demonstrate innovative practices in own classroom;

2. Observe and peer-coach other teachers implementing the innovative practices; and

3. Provide resources to other teachers to facilitate the implementation.

**Evaluation of the Staff Development:**

1. Evaluate implementation of the innovative practices and their effects on students; and

2. Plan subsequent staff development on the results of the evaluation.

**Desired Knowledge/Skills/Attitudes:**

1. Knowledgeable of how change occurs in schools;

2. Skillful in conducting needs analysis and program evaluation;

3. Flexible, able to work with others;

4. Willing to demonstrate innovation;

5. Knowledgeable of research/practice literature related to specific needs;

6. Aware of a range of human and material resources in the school, in the district and the state; and

7. Demonstrated ability in organization and communication skills.

#### **Job Description**

##### **Career Option Three: Curriculum Developer Role**

**Focus:** School or school district basis

**Purpose:** Enhance the coordination and enrichment of curricula within the school or school district. The work of the curriculum developer complements that of the principal/supervisors.

**Effective Practices: Planning the Curriculum Development:**

1. Clarify curriculum needs based on discussion with principal, supervisors and other faculty members;

2. Involve administrators and faculty in the identification of needed curricula related to school improvement; and

3. Locate resources (technical, human) needed to formulate the curricula.

**Developing the Curriculum:**

1. Coordinate across-grade-level planning to insure that learning activities are appropriately sequenced and individualized;

2. Articulate curriculum vertically between grade levels; and

3. Develop demonstration units of instruction for later dissemination within a school or school district.

**Follow-up to the Curriculum Development:**

1. Disseminate information about the curriculum through staff development sessions; and

2. Work with individual teachers to integrate new units with a teacher's own plan.

**Evaluation of the Curriculum Development:**

1. Based on student achievement information related to the use of the newly developed curriculum, develop modifications for consideration by the principal and teachers.

**Desired Knowledge/Skills/Attitudes:**

1. Knowledgeable of learning/curriculum theory;

2. Able to develop unit plans;

3. Knowledgeable of a range of curriculum options; and

4. Able to plan individual activities within larger instructional blocks.

APPENDIX G

1992-93 MINIMUM SALARY SCHEDULE FOR TEACHERS

Years of Experience	Two Years College	Three Years College	Bachelor's Degree	Master's Degree	Master's Plus 30*	Specialist in Education	PH.D. or ED.D. Degree
0	\$11,095	\$11,801	\$14,631	\$14,984	\$14,984	\$15,516	\$16,223
1	11,270	11,979	14,984	15,337	15,337	15,868	16,574
2	11,448	12,154	15,337	15,692	15,692	16,223	16,930
3	11,801	12,508	15,692	16,044	16,044	16,574	17,461
4	12,154	12,863	16,044	16,398	16,398	16,930	18,020
5	12,508	13,216	16,398	16,930	17,016	17,555	18,576
6	12,863	13,569	16,753	17,461	17,646	18,203	19,132
7	13,216	14,100	17,107	18,020	18,298	18,854	19,689
8	13,748	14,631	17,461	18,576	18,947	19,502	20,245
9	14,277	15,161	18,020	19,132	19,595	20,154	20,802
10	14,808	15,692	18,576	19,689	20,245	20,802	21,361
11	14,808	15,692	19,133	20,245	20,896	21,451	21,918
12	14,808	15,692	19,707	20,852	21,547	22,099	22,445
13	14,808	15,692	20,298	21,479	22,194	22,761	23,118
14	14,808	15,692	20,298	21,479	22,194	22,761	23,118
15	14,808	15,692	20,298	21,479	22,194	22,761	23,118
16	14,808	15,692	20,907	22,123	22,860	23,445	23,812
17	14,808	15,692	20,907	22,123	22,860	23,445	23,812
18	14,808	15,692	20,907	22,123	22,860	23,445	23,812
19	14,808	15,692	21,534	22,787	23,545	24,149	24,526
20	14,808	15,692	21,534	22,787	23,545	24,149	24,526
21	14,808	15,692	21,534	22,787	23,545	24,149	24,526
22	14,808	15,692	22,180	23,469	24,252	24,872	25,262
23	14,808	15,692	22,180	23,469	24,252	24,872	25,262
24	14,808	15,692	22,180	23,469	24,252	24,872	25,262
25	14,808	15,692	22,846	24,174	24,979	25,619	26,020

\*Master's Degree Plus 30 Graduate Hours  
Fourth Year Implementation of Act 659 of 1988, 1/6 of 7% and 25 Steps.

Appendix H

Description of Functions

**Collaboration** — Any time spent by the MCOP teacher with other teachers in order to cooperatively develop strategies to improve teaching performance, explain the development of lesson plans, follow up on content developed in formal staff development or curriculum development sessions.

**Communication** — Any time spent by the MCOP teacher gathering or dispensing information about staff or curriculum development activities. Includes letters or memoranda inviting or informing participants about the activities, including information provided to the LEA regarding the activity.

**Conference** — Any time spent by the MCOP teacher with the intern or participating teacher discussing observations (feedback), e.g., pre-observation, post-observation.

**Evaluation** — Any time spent by the MCOP teacher regarding the evaluation of his/her MCOP program. Includes the development of local instruments of program assessment, the collection and analysis of the data and the development of reports of the progress and accomplishments of the program.

**Implementation** — Any time spent by the MCOP teacher in the facilitation and presentation of staff development activities.

**Instruction** — Any time spent by the MCOP teacher in the teaching-learning process with students in Career Option Two, i.e., supplemental instruction.

**MCOP Meetings** — Any time spent by the MCOP teacher planning for and meeting with other MCOP teachers for the purpose of conducting MCOP business and/or sharing information.

**Miscellaneous** — All other times not accounted for. Includes clean up from activities, completing MCOP functions log and discussing the MCOP role with the principal.

**Nurturing** — Any time spent by the MCOP teacher that is primarily intended to address the morale of the intern or participating teacher.

**Observation** — Any time spent by the MCOP teacher demonstrating lessons for the intern or teacher participants. Any time spent by the MCOP teacher observing the intern or teacher participants in the performance of his/her duties. This includes duties outside the classroom, e.g., field trips, playground activities, extra curricular duties.

**Planning** — Any time spent independently by the MCOP teacher preparing for meetings with an intern or peer teachers, designing strategies and materials to work with an intern or participating teachers, preparing for supplemental instruction, and planning content for staff or curriculum development activities, e.g., gathering information. Any time spent by the MCOP teacher in preparing the MCOP action plan/proposal.

**Procedures** — Any time spent by the MCOP teacher with the intern or participating teachers to explain district and school procedures for grading, behavior management, field trips, parent conferences, etc., or procedures for the implementation of the curriculum, i.e., maintaining the management system.

**Professional Development** — Any time spent by the MCOP teacher in professional growth besides attending MCOP meetings. Participating in workshops or courses other than MCOP meetings may count for no more than 16 hours of the required 100 hours.

Carole Wallin  
Executive Director

## DECLARATION OF EMERGENCY

### Department of Education Board of Elementary and Secondary Education

#### Technical Institutes Name Changes

The Board of Elementary and Secondary Education, at its meeting of May 28, 1992, exercised those powers conferred by the Administrative Procedure Act, R. S. 49:953(B) and changed the name of Southwest Louisiana Technical Institute to Acadian Technical Institute and the Lake Providence Branch of Tallulah Technical Institute to Margaret Surles Branch of Tallulah Institute.

These name changes were adopted as an emergency rule in order for the name change to be effective at the beginning of the new fiscal year. Effective date of emergency rule is July 1, 1992.

Carole Wallin  
Executive Director

## DECLARATION OF EMERGENCY

### Office of the Governor Commission on Law Enforcement and Administration of Criminal Justice Sentencing Commission

**(Editor's Note:** The following emergency rule, which appeared on pages 480 through 482 of the *Louisiana Register*, May, 1992, is being republished to correct typographical errors.)

The Office of the Governor, Commission on Law Enforcement and Administration of Criminal Justice, Sentencing Commission exercised the emergency provision of the Administrative Procedure Act, R.S. 49:953(B) to amend the Felony Sentencing Guidelines, effective May 20, 1992, for 120 days. Emergency adoption of the amendments described here is necessary to eliminate technical problems experienced by the courts and the Office of Probation and Parole in implementing the Felony Sentencing Guidelines as

of January 1, 1992 and to make such other adjustments as are necessary to ensure the timely and expeditious sentencing of offenders in a fair and equitable manner under the sentencing guidelines without further delay.

## Title 22 CORRECTIONS, CRIMINAL JUSTICE AND LAW ENFORCEMENT Part IX. Sentencing Commission Subpart 1. Felony Sentencing Guidelines

### Chapter 2. Determining Sentences Under the Sentencing Guidelines

#### §205. Criminal History Index Classification System

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#### B. Definitions

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2. *Crime-free time* means a period of time during which the offender was not in a *custody status*, as defined below, and during which the offender has not committed an offense which subsequently results in a felony or misdemeanor conviction, as defined herein.

3. *Custody status* means any form of criminal justice supervision resulting from a guilty plea, conviction, or an adjudication of delinquency including post conviction release or bail, confinement, probation, or parole.

4. *Felony adjudication* means any unexpunged adjudication for delinquency by a court exercising juvenile jurisdiction:

a. for the offense of first degree murder, second degree murder, manslaughter, aggravated rape, forcible rape, simple rape, sexual battery, aggravated kidnapping, or armed robbery, or

b. for any felony offense if the defendant was under the age of 26 years at the time of the commission of the current offense, or

c. for any felony offense if the defendant was 26 years of age or older at the time of the commission of the current offense and the defendant previously had been convicted as an adult of a felony or a misdemeanor in which an element involved the use of a dangerous weapon.

\*\*\*

6. *Misdemeanor adjudication* means an unexpunged adjudication for delinquency by a court exercising juvenile jurisdiction for an offense which, if committed by an adult, would be a misdemeanor, as defined herein.

\*\*\*

#### C. Criminal History Index Factors

1. The criminal history index is based on points derived from the following factors:

\*\*\*

c. prior applicable adjudications of delinquency.

d. custody status at the time of the commission of the offense serving as the basis for the current conviction.

2. The Criminal History Index is composed of seven classes ranging from Class A, most serious criminal history, to Class G, least serious criminal history.

3. Method of Calculation

a. Prior felony convictions and adjudications: Score all prior felony convictions and applicable felony adjudications of delinquency by the number of points ascribed to the seriousness level of the offense of conviction as set forth in Chapter 4, §402.A and C. If the prior felony conviction is based on an unranked offense, i.e., not ranked on the crime seriousness ranking table, the court may assign a serious-

ness score of one point to the conviction. If the court believes that a seriousness score of one point significantly under represents the seriousness of the prior conviction, the judge may use the seriousness score of an analogous offense, provided the court states for the record why the unranked offense is analogous to the ranked offense which serves as the basis for the score.

b. Prior misdemeanor convictions and adjudications: Add one-fourth (.25) point, not to exceed a total of one point, for each of the following misdemeanor convictions or adjudications:

i. any misdemeanor conviction for an offense in Louisiana Revised Statutes Title 14 or the Uniform Controlled Dangerous Substances Law of Louisiana Revised Statutes Title 40 or any local ordinance which is substantially similar to an offense in Title 14 or the Uniform Controlled Dangerous Substances Law of Title 40.

ii. any misdemeanor conviction for a traffic offense in Louisiana Revised Statutes Title 32 or local traffic ordinance substantially similar to any Title 32 traffic offense if the current offense of conviction involves the operation of a motor vehicle.

iii. any misdemeanor adjudication if, at the time of the commission of the current offense, the offender was under age 17, and is being prosecuted as an adult.

c. Prior similar criminal behavior: Add one-half (.5) point for each prior felony conviction or adjudication if the prior offense of conviction or adjudication is in the same "crime family" as the current offense of conviction. See Chapter 4, §402.D., Crime Family Table. The court also may add the additional one-half point if the court finds that the prior conviction or adjudication was analogous to the offenses in the crime family of the current offense, and states for the record the reasons for the finding.

d. Offenses committed during custody status: Add one point if the current felony offense was committed while the offender was in a "custody status."

e. Limitation on prior misdemeanor convictions: Points added to an offender's criminal history index score for misdemeanor convictions or adjudications shall not increase the offender's criminal history index more than one level.

f. Multiple convictions on same day: Count only the most serious conviction or adjudication if more than one conviction or adjudication occurred on the same day.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:321-329.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Commission on Law Enforcement and Administration of Criminal Justice, Louisiana Sentencing Commission, LR 18:46 (January 1992), repromulgated LR 18:166 (February 1992), amended LR 18:

#### §209. Departures From the Designated Sentence Range

\*\*\*

C. *Mitigating circumstance* means a factor which is present to a significant degree which lessens the seriousness of the offense below the level of the typical case arising under the offense of conviction. Factors which constitute a legal defense shall not be considered mitigating circumstances. The following factors constitute mitigating circumstances:

\*\*\*

17. The offender has spent a significant period of time free of any custody status during which he has not engaged

in any criminal activity resulting in a felony or misdemeanor conviction, as defined herein. If deemed appropriate, the court may consider the suggested crime-free time reduction factors in Chapter 4, §402.E.

18. Any other relevant mitigating circumstances which distinguish the case from the typical case of the offense of conviction.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:321-329.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Commission on Law Enforcement and Administration of Criminal Justice, Louisiana Sentencing Commission, LR 18:47 (January 1992), amended LR 18:

#### §215. Concurrent and Consecutive Sentences

\*\*\*

C. Procedure for Imposing Consecutive Sentences. If the court finds that a consecutive sentence should be imposed, the following procedures apply to determine the base sentence range and the recommended sentence.

1. The base sentence range is established by determining, from the appropriate cell in the grid, the designated sentence range for the most serious offense of conviction. The most serious offense is the offense with the longest statutory term of incarceration or the offense with the longest term of incarceration within the designated sentence range under the guidelines, whichever is greater.

\*\*\*

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:321-329.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Commission on Law Enforcement and Administration of Criminal Justice, Louisiana Sentencing Commission, LR 18:49 (January 1992), amended LR 18:

#### Chapter 4. Louisiana Sentencing Guidelines Tables

##### §401. Criminal Seriousness Tables

###### A. Crime Seriousness Master Ranking List

\*\*\*

*Negligent Homicide* (LRS 14:32): Level 4.

*Possession with Intent to Distribute Marijuana* (LRS 40:966(A)(1)): Level 4.

*Solicitation for Murder* (LRS 14:28.1): Level 4.

*Possession of Drugs* (Sched. II, Narcotic) (LRS 40:967(C)): Level 5.

\*\*\*

###### B. Felonies Ranked Numerically by Statute Number

\*\*\*

*Negligent Homicide* (LRS 14:32): Level 4.

*Possession with Intent to Distribute Marijuana* (LRS 40:966(A) (1)): Level 4.

*Solicitation for Murder* (LRS 14:28.1): Level 4.

*Possession of Drugs* (Sched. II, Narcotic) (LRS 40:967(C)): Level 5.

\*\*\*

###### C. Ranted Felonies in Alphabetical order

\*\*\*

*Negligent Homicide* (LRS 14:32): Level 4.

*Possession with Intent to Distribute Marijuana* (LRS 40:966(A) (1)): Level 4.

*Solicitation for Murder* (LRS 14:28.1): Level 4.

*Possession of Drugs* (Sched. II, Narcotic) (LRS 40:967(C)): Level 5.

\*\*\*

AUTHORITY NOTE: Promulgated in accordance with

HISTORICAL NOTE: Promulgated by the Office of Governor, Commission on Law Enforcement and Administration of Criminal Justice, Louisiana Sentencing Commission, LR 18:50 (January 1992), amended LR 18:

**§402: Criminal History Tables**

\*\*\*

D. Crime Family Table

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*Negligent Homicide* (LRS 14:32): Level 4.

*Possession with Intent to Distribute Marijuana* (LRS 40:966(A) (1)): Level 4.

*Solicitation for Murder* (LRS 14:28.1): Level 4.

*Possession of Drugs* (Sched. II, Narcotic) (LRS 40:967 (C)): Level 5.

\*\*\*

E. Crime-Free Time

Amount of Crime-Free Time	Suggested Multiplication Factor
Less than 5 years	1 (Full value)
5 years to 10 years	.75 (Reduced by one-fourth)
Over 10 years but less than 20 years	.50 (Reduced by one-half)
20 years or more	.10 (Reduced by 90%)

\*\*\*

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:321-329.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Commission on Law Enforcement and Administration of Criminal Justice, Louisiana Sentencing Commission, LR 18:50 (January 1992), amended LR 18:

**§403. Tables for Determining Designated Sentence**

A. Sentencing Guidelines Grid

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	A (5.0 +)	B (4.9-4.0)	C (3.9-3.0)	D (2.9-2.0)	E (1.9-1.0)	F (0.9-0.1)	G (0)
0 MURDER AG RAPE DIST DRUGS SCH I NARC AG KIDNAPPING	LIFE	LIFE	LIFE	LIFE	LIFE	LIFE	LIFE
1 ARM ROBBERY FORC RAPE MANSLAUGHTER AG BURGLARY KIDNAPPING II	360-330	300-270	240-210	180-150	126-96	102-72	90-60
2 AG BATTERY ROBBERY I DIST DRUGS SCH II NARC SIMP RAPE	240-210	180-150	126-96	108-84	84-72	72-60	60-36
3 MOLEST JUVEN PURSE SNATCH BATTERY II SIMP BURGLARY INHAB. DWELL. SIMP ESCAPE	144-120	108-84	84-72	66-54	60-48	54-36	48-24
4 CARNAL KNOWL OF JUVENILE SIMP BURGLARY SIMP CR DMG PRP I >= 50,000	240-160	225-150	210-140	195-130	180-120	165-110	150-100
5 FORGERY IND BEHAV JUV ILL POSS STOL GDS I >= 500 THEFT I >= 500	120-96	84-66	72-54	42-30	36-24	36-18	36-18
6 SMP ARS. I >= 500 UNLAW ENTRY PL BUS SIMP CRIM DMG PROP II >= 500	225-150	210-140	195-130	180-120	165-110	150-100	135-90
7 ILL POSS STOL GOODS II >= 100 POSS DRUGS SCH I, Non-Narcotic THEFT II >= 100	72-60	66-54	46-36	36-24	30-18	(30-18)	(30-15)
8 CONTRABAND POSS DRUGS SCH II, Non-N, III, IV SIMP ARS. II < 500	210-140	195-130	180-120	165-110	150-100	135-90	120-80
9 CRIM AGNST NATURE PROSTITUTION SIMP ESCAPE SIMP POSS MARI	60-48	30-24	24-18	(24-18)	(24-15)	(24-12)	(24-12)
	195-130	180-120	165-110	150-100	135-90	120-80	108-54
	48-36	24-18	(24-18)	(24-15)	(21-12)	(21-12)	(21-12)
	180-120	165-110	150-100	135-90	120-80	108-54	72-36
	36-24	(24-18)	(24-15)	(24-15)	(18-21)	(18-12)	(18-12)
	165-110	150-100	135-90	120-80	108-54	72-36	48-24
	24-18	(24-15)	(24-12)	(24-12)	(15-12)	(15-12)	(15-12)
	150-100	135-90	120-80	108-54	72-36	48-24	24-12

----- - Reverse dotted line

----- - Heavy Dashed Line

\* Most frequently occurring offenses for each level are listed.

## E. Intermediate Sanction Definitions

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Jail: Incarceration not in custody of the Department of Public Safety and Corrections. If the court desires to sentence an offender to less than one month of jail time, the offender should receive a proportionate reduction in the number of sanction unit credits. When jail is used as an intermediate sanction, sanction unit credit is based on the number of days or months which the offender will actually serve, deducting the amount of anticipated good time credit which the offender will earn if he serves his sentence on good behavior.

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**AUTHORITY NOTE:** Promulgated in accordance with R.S. 15:321-329.

**HISTORICAL NOTE:** Promulgated by the Office of the Governor, Commission on Law Enforcement and Administration of Criminal Justice, Louisiana Sentencing Commission, LR 18:50 (January 1992), amended LR 18:

Complete tables 401.A, B, C, and 402.D, including amendments, can be obtained from the Office of the State Register, 1051 North Third Street, Baton Rouge, LA 70802 or from the Louisiana Sentencing Commission, 1885 Wooddale Boulevard, Baton Rouge, LA 70806.

Michael A. Ranatza  
Executive Director

## DECLARATION OF EMERGENCY

### Department of Health and Hospitals Office of Management and Finance HIV Program Office

The Department of Health and Hospitals, Office of Management and Finance, HIV Program Office has exercised the emergency provision of the Administrative Procedure Act, R.S. 49:953(B) to adopt the following emergency rule regarding the implementation of a program to provide persons with HIV infection with Home Based Care. Funds were awarded for this program on April 1, 1992. This program is replacing the HRSA funded Home Based Care program scheduled to end on June 30, 1992. This rule is necessary to ensure that offers can be solicited, contracts awarded and services can be provided beginning July 1, 1992 in order to avoid gaps in service provision. This rule becomes effective May 1, 1992.

I. Definitions. When used in this subpart, unless expressly stated otherwise or unless the context of subject matter requires a different interpretation:

A. *Program* — the home health care program for HIV infected persons.

B. *Home Based Care* — the medical, hospice, and support services provided in the client's home by a licensed Home Health Care of Hospice agency.

C. *Poverty Guideline* — means the federal income official poverty line applicable to a family of the same size as the applicant's as published annually in the *Federal Register*.

D. *Service Agency or Agency* — the licensed home health agency which has a contract to provide services.

E. *Department* — the Louisiana Department of Health and Hospitals.

II. Services Covered by this Program. All services provided

under this program are to be performed in the home for HIV infected clients at a physician's order. Visits are limited to a maximum of twice a day unless otherwise indicated.

A. Skilled Nursing including but not limited to:

1. medication preparation, administration, and monitoring;

2. care of peripheral and central access devices;

3. insertion, irrigation and maintenance of foley catheters;

4. complex wound care and dressing changes;

5. oxygen therapy and monitoring and other respiratory therapy;

6. venipuncture for laboratory studies;

7. client/significant other education:

a. medications and adverse effects

b. diet

c. self care

d. disease process

e. treatments

f. custodial care

g. infection control procedures;

8. aerosolized Pentamidine treatments (IM pentamidine is not covered by this program);

9. palliative care focusing on pain relief and symptom control.

B. Home health aides (maximum of two-hour visits and five visits per week) to assist with activities of daily living.

C. Personal care attendants to provide services including light housework, grocery shopping, and cooking (maximum of five visits per week).

D. Supplies, durable medical equipment rental.

E. Medications at a maximum of 30 percent above cost. IV therapy needed more than once a day up to three times a day can be covered for up to eight weeks. Daily IV therapy can continue for the duration of the home based care. Medications covered are those provided under the Level 1 and 2 State formularies (attached) or a formulary approved by the department.

F. Physical therapy.

G. Social worker services (maximum of two visits a week).

H. Routine diagnostic tests.

I. Nutritional therapy following the Louisiana Medicaid Guidelines including supplements at a maximum of 30 percent above cost. (Physician order need not specify enteral via tube for this program).

J. Pastoral Care.

K. Bereavement Follow-up.

L. Trained Volunteers to provide support to the client and family through tasks such as shopping, sitting, running errands, preparing meals, and listening.

III. Client Eligibility

A. Client must be HIV infected.

B. Client desires home care as determined and documented by the social worker/case manager.

C. Service is not covered by any other third party coverage. This program should be used when all other sources of payment for home based care have been exhausted. This program will supplement gaps in existing third party coverage for services listed including covering beyond the amount and frequency covered by Medicaid.

D. Client must have a family income less than 200 percent of the federal poverty guidelines updated annually

and available resources less than \$4000 based on Medicaid guidelines.

E. Client must have a physician who will provide orders in writing or verbally to the agency prior to discharge, act as that client's physician after discharge, maintain a consistent plan, and communicate changes from the initial plan directly to the agency or the physician must be willing to transfer the client to the care of the agency physician.

F. Client is certified by the agency and the client's physician as not being in need of acute care.

G. Client's physician or physician's associates are available 24 hours a day by phone or beeper or agrees that the home care agency may refer the client to an emergency room for problems.

#### IV. Agency Requirements

A. Agency is licensed Home Health Care or Hospice provider.

B. Agency will confirm client's eligibility for the program as stated above.

C. The home care nurse must obtain a clinical status report and home care orders from the physician for the referred client prior to beginning care, will conduct a first visit with the client and will develop a written plan of care. Progress notes will be kept and the client will be recertified for Home Based Care and the plan of care updated at least every 60 days. The home care nurse will maintain ongoing communication with the physician and case manager in compliance with Medicaid and Medicare guidelines.

D. Home care will begin within 24 hours of discharge or order.

E. Nurse will be available for consultation on a 24-hour, seven day a week basis.

F. Agency will participate in the Ryan White Consortium for the region to which they provide care and have a representative present at a minimum of 50 percent of the monthly Consortium meetings.

V. Application Guidelines. A client can be recommended for home care by the physician, nurse, social worker, or case manager involved with the client's care. Client's eligibility must be verified by the service agency and verification provided to the department. Written orders for home based care services must be provided by the client's physician.

VI. Termination. Eligibility for services under this program will be terminated if the client:

A. subsequently is determined to have a family income greater than 20 percent of the federal poverty line;

B. subsequently is determined to have assets of greater than \$4000;

C. is not stable enough to be cared for outside of the acute care setting as determined by the agency or the client's physician;

D. moves from Louisiana;

E. no longer has a stable home environment appropriate for the provision of home care as determined by the agency or the case manager;

F. no longer desires home based care;

G. no longer medically requires home based care as determined by the agency or the physician.

VII. Reporting Requirements. Agencies will submit invoices for services provided as required. Agencies will provide individual client service utilization reports as required under the Ryan White Uniform Reporting System.

VIII. Fair Hearing. Persons requesting and denied services

under this program are entitled to request a conference and/or fair hearing to review the decision of the service agency.

IX. Payment for Services. Payment for home based services delivered under this program will be made directly to the service agency.

X. Confidentiality. The confidentiality of HIV and AIDS related information is required in accordance with R.S. 40:38.5. Each disclosure of confidential HIV-related information must be accompanied by the appropriate release.

XI. Forms. The Department of Health and Hospitals, Office of Management and Finance, HIV Program office has developed example forms that can be used in this program. These include client eligibility checklist and release of medical information form. In addition, a client service utilization report will be developed. While the specific forms do not need to be used, the information contained on the forms must be collected and provided to the department.

J. Christopher Pilley  
Secretary

## DECLARATION OF EMERGENCY

### Department of Health and Hospitals Office of the Secretary Bureau of Health Services Financing

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, is exercising the emergency provision of the Administrative Procedure Act, R.S. 49:953(B) to adopt the following emergency rule in the Medicaid Program. Rules regarding case management services were adopted and published in December 20, 1986, June 20, 1989 and April 20, 1990 issues of the *Louisiana Register*. This emergency rule was previously published in Vol. 17, of the *Louisiana Register* dated December 20, 1991.

The Consolidated Omnibus Budget Reconciliation Act gave states the authority to provide case management services under their Title XIX Programs (Medicaid) to certain population groups to reduce barriers to needed health services. Case management is defined as an individualized planning and service coordination under which responsibility for locating, coordinating and monitoring necessary and appropriate health care services for an individual rests with a specific person or organization. Currently Medicaid of Louisiana covers case management services and reimburses such services in accordance with a service unit comprised of 15 minutes for the following specialized groups of eligible individuals: mentally retarded-developmentally disabled, chronically mentally ill, ventilator-assisted individuals, and HIV disabled individuals.

Currently the Bureau of Health Services Financing reimburses enrolled providers of case management services \$9.37 for each 15 minute service unit. After review of required documentation on provider costs, the bureau plans to increase the reimbursement rate to \$13.26 for each service unit effective December 1, 1991. This rule is necessary to ensure that the reimbursement for services remains in compliance with 1902(a)(30) of the Social Security Act which mandates payment of reasonable and adequate rates.



### EMERGENCY RULE

A prospective interim rate of \$13.26 per unit of service for case management services shall be established subject to adjustment based upon audited cost report data. Based upon provider audit findings the prospective interim rate shall be adjusted to assure compliance with federal regulations. This increase applies only to enrolled providers currently reimbursed on a 15 minute service unit basis. The general provisions currently in effect continue to govern reimbursement for these services.

J. Christopher Pilley  
Secretary

### DECLARATION OF EMERGENCY

Department of Health and Hospitals  
Office of the Secretary  
Bureau of Health Services Financing

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing (BHSF), has exercised the emergency provision of the Administrative Procedure Act, R.S. 49:953(B) to adopt the following emergency rule in the Medical Assistance Program.

Under current policies only physician services and prenatal clinic services are reimbursed to federally-qualified health centers (FQHC). Effective April 1, 1990, BHSF will begin implementation of reimbursement based on allowable costs for federally-qualified health center services. This includes "core" services as well as any other services provided by a federally-qualified health center which are otherwise covered as reimbursable Medicaid services in Louisiana. Federally-qualified health centers are defined as those receiving a grant under Section 329, 330, or 340 of the Public Health Service Act or which, based on the recommendation of the Health Resources and Services Administration within the Public Health Service, are determined by the secretary to meet the requirements for receiving such a grant and have been recognized by the Health Care Financing Administration (HCFA) as eligible for Medicaid reimbursement.

Following implementation of these regulations, health services mandated to be covered when rendered by the federally-qualified health centers shall include the following "core services": physician and physician assistant services, medically necessary services including pneumococcal and influenza vaccines and supplies incident to physician services; nurse practitioners; and clinical psychologist and clinical social worker services. Any other ambulatory services covered by Title XIX in Louisiana may also be reimbursed when rendered by a qualified FQHC provider in accordance with state policy and procedures.

Implementation of this provision is mandated by the Omnibus Reconciliation Act of 1989, Section 6404 (P.L. 101-239). This rule is necessary to ensure compliance with mandated federal regulations and to avoid sanctions from HCFA.

Emergency rulemaking provisions were previously exercised effective April 1, 1990 and published in the *Louisiana Register*, April 20, 1990, and readopted and published in the *Louisiana Register* August 20, 1990. The rule was published as a notice of intent on September 20, 1990. Subsequently,

the emergency rule was readopted and published in the *Louisiana Register* on December 20, 1990, April 20, 1991, October 20, 1991, and January 20, 1992. This emergency rule is effective for the maximum period allowed under R.S. 49:954(B), et seq.

### EMERGENCY RULE

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing shall begin implementation of reimbursement for "core" services and other ambulatory services covered under Medicaid and delivered by federally-qualified health centers as required by Section 6404 of the Omnibus Reconciliation Act of 1989 in accordance with state policy and procedures. Reimbursement for these services shall be based on allowable costs in accordance with Medicare principles of cost reimbursement found at 42 CFR Part 413. Annual cost reporting and full cost settlement shall be required to participate in Title XIX as a federally-qualified health center.

J. Christopher Pilley  
Secretary

### DECLARATION OF EMERGENCY

Department of Health and Hospitals  
Office of the Secretary  
Bureau of Health Services Financing

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, has exercised the emergency provision of the Administrative Procedure Act, R.S. 49:953(B) to adopt the following emergency rule in the Medicaid Program. The rule was previously adopted by emergency rulemaking and published in the *Louisiana Register* of December 20, 1991, Vol. 17, page 1194.

This rule is to increase reimbursement rates for Medicaid non-emergency ambulance transportation services. This rate increase is in recognition of the increases these providers have faced in insurance, labor and other costs of operation over recent years. This rule is necessary to assure compliance with mandatory federal law and regulations which require reimbursement to be reasonable and adequate as well as assure the continued availability of transportation services statewide for non-ambulatory patients.

### EMERGENCY RULE

Rates for Medicaid non-emergency ambulance transportation services are increased from \$2 per mile to \$2.11 per mile. Base rate and transfer rate fees are increased from \$77.50 to \$81.84.

All current vehicle requirements for ambulance transport remain in effect.

J. Christopher Pilley  
Secretary

## DECLARATION OF EMERGENCY

Department of Health and Hospitals  
Office of the Secretary  
Bureau of Health Services Financing

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, has exercised the emergency provision of the Administrative Procedure Act, R.S. 49:953(B) to adopt the following emergency rule in the Medical Assistance Program effective March 1, 1991.

Groups of individuals who are eligible for Medicaid reimbursement for services are defined in federal regulations. Coverage for certain groups are mandated, and other groups to whom coverage may be extended are described. Recipients of Aid to Families with Dependent Children (AFDC) administered by the Department of Social Services (DSS), Office of Family Support (OFS), and recipients of Supplemental Security Income (SSI) administered by the Social Security Administration (SSA) are among the groups required to be covered for Medicaid services.

The Department of Health and Hospitals is the single state agency responsible for administration of the Medicaid Program in the state. Under the terms of an interagency agreement, OFS field staff determines eligibility for Medicaid coverage. The eligibility determination examiners of the Medical Assistance Program (MAP) Unit are stationed on-site in state charity hospitals and some public health units to assist patients in making application for Medicaid benefits.

In order to expedite certification for Medicaid coverage, DHH is implementing coverage of individuals described in 42 CFR 435.210 who would be eligible for but are not receiving cash assistance. This eligibility group is described as persons who have been determined to meet all the eligibility criteria for cash assistance under AFDC or SSI, but are not receiving these benefits. At the time of notification of certification, the recipients will be informed of their eligibility for cash assistance so that they may make application for those benefits if they so choose.

Emergency rulemaking is necessary to extend Medicaid coverage to hospital patients in need of expeditious certification in order to receive necessary services. The emergency rulemaking provisions of the Administrative Procedure Act, R.S. 49:953(B), were previously exercised effective February 11, 1991 and published in the *Louisiana Register*, on February 20, 1991, June 20, 1991, October 20, 1991, and January 20, 1992. This rule is effective for the maximum period allowed under R.S. 49:954(B), et seq.

### EMERGENCY RULE

Medicaid eligibility is extended to individuals who would be eligible for but are not receiving cash assistance as an Optional Categorically Eligible group. This eligibility group is described as persons who have been determined to meet all the eligibility criteria for cash assistance under AFDC or SSI, but are not receiving these benefits.

Implementation of the rule is dependent on the approval of the Health Care Financing Administration (HCFA). Disapproval of the change by HCFA will automatically cancel the provisions of this rule and current policy will remain in effect.

J. Christopher Pilley  
Secretary

## DECLARATION OF EMERGENCY

Department of Health and Hospitals  
Office of the Secretary  
Bureau of Health Services Financing

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, has exercised the emergency provision of the Administrative Procedure Act, R.S. 49:953(B) to adopt the following emergency rule in the Medical Assistance Program.

Section 4604 of the Omnibus Reconciliation Act of 1990 (P.L. 101-508) mandates that effective for services on or after July 1, 1991, costs related to inpatient services to infants under one year of age (or through discharge if an inpatient on their first birthday) be handled as a pass-through cost and be reimbursed without any cost limits. Medicaid is therefore proposing to reimburse for nursery and neonatal and other inpatient services to infants under one year of age, 100 percent of reasonable costs as defined by Medicare principles of reimbursement and methods of cost apportionment. This proposed change in reimbursement is projected to result in increased reimbursement for nursery inpatient services to Medicaid recipients of \$5,485,980 and for neonatal intensive care unit inpatient services of \$2,992,636. Currently the state reimburses hospitals on costs subject to certain limitations. Supplemental cost report forms to pass-through such costs shall be required and shall be subject to audit. It will be necessary for hospitals providing inpatient services to infants under one year of age to maintain sufficient documentation to track such services and costs.

An emergency rule regarding implementation of OBRA-90 provisions related to Medicaid was previously implemented effective January 2, 1991 and published in the *Louisiana Register* (Volume 17, Number 1, page 27) on January 20, 1991 and was effective for the maximum period allowed under R.S. 49:954(B) et seq.

### EMERGENCY RULE

Effective for services provided on or after July 1, 1991, the Bureau of Health Services Financing shall revise Medicaid reimbursement for inpatient hospital services to provide for carve-out of inpatient services to infants under one year of age (or through discharge if an inpatient on their first birthday). Reasonable costs in accordance with Medicare (Title XVIII) principles of reimbursement and methods of cost apportionment, which are related to inpatient hospital services to infants under one year of age, shall be reimbursed as pass-through costs and shall not be subject to per discharge or per diem limits applied to other inpatient hospital services.

Interested persons may submit written comments to the following address: John L. Futrell, Office of the Secretary, Bureau of Health Services Financing, Box 91030, Baton Rouge, LA 70821-9030. He is the person responsible for responding to inquiries regarding this proposed change. A copy of this emergency rule is available for review in each local Office of Family Support.

A public hearing on this proposed change will be held on Tuesday, August 25, 1992, in the Department of Transportation and Development Auditorium, 1201 Capitol Access Road, Baton Rouge, LA at 9:30 a.m. All interested persons will be afforded an opportunity to submit data, views or arguments, orally or in writing at said hearing.

Implementation of this rule is dependent on the ap-

proval of the Health Care Financing Administration (HCFA). Disapproval of the change or effective date by HCFA will automatically cancel the provisions of this rule and current policy will remain in effect.

J. Christopher Pilley  
Secretary

### **DECLARATION OF EMERGENCY**

#### **Department of Health and Hospitals Office of the Secretary Bureau of Health Services Financing**

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, has exercised the emergency provision of the Administrative Procedure Act, R.S. 49:953(B) to adopt the following emergency rule in the Medical Assistance Program.

Non-emergency transportation services are provided to Medicaid recipients as a covered service under Title XIX. In order to provide the least expensive means available that is suitable to meet the recipients' needs, the Medical Assistance Program contracted out the provision of medical transportation services in specified areas. This process was determined to maintain provision of these services at reasonable and adequate reimbursement rates to meet the costs that must be incurred by efficiently and economically operated providers to provide services in conformity with applicable state and federal laws, regulations, and standards for quality and safety. Freedom of choice is allowed except when non-emergency transportation services are provided by a local transit authority or contract provider. In cases where the agency determined more than one least expensive source is available and suitable to meet the recipients' needs, freedom of choice is allowed. When freedom of choice is not exercised by the recipient in such cases, the agency assigns providers by rotation.

Contracts to provide transportation have been operational in the Baton Rouge Region (East Baton Rouge, Ascension, Iberville, West Baton Rouge, Pointe Coupee, West Feliciana, East Feliciana, and Livingston parishes), Terrebonne Region (Terrebonne, Lafourche, Assumption, the southern half of St. Martin, and the eastern half of St. Mary parishes), and New Orleans Region (Orleans, St. Bernard, Jefferson, Plaquemines, and St. Charles parishes). The Medical Assistance Program may at its discretion choose not to contract out the provision of medical transportation services in a specified area due to contract proposals which exceed the anticipated cost of providing this service in the absence of the contract. It has been determined that contract proposals for the Baton Rouge and Terrebonne Regions exceed the anticipated costs of providing non-emergency medical transportation by an efficiently and economically operated provider to provide services in conformity with applicable state and federal laws, regulations, and quality and safety standards.

Under this rule, non-emergency medical transportation services under Title XIX Freedom of Choice Waiver contracted services provisions shall be available only in the New Orleans Region comprised of Orleans, St. Bernard, Jeffer-

son, Plaquemines, and St. Charles parishes. Non-emergency medical transportation in other areas of the state shall be provided under freedom of choice provisions except when such services can be provided by a local transit authority.

This rule is necessary to allow provision of this service in conformity with 42 CFR 440.170 and 440.230 in the absence of a contractor of services for the affected regions.

This rule is effective for the maximum period allowed under R.S. 49:954(B) et seq.

### **EMERGENCY RULE**

Non-emergency medical transportation services under Title XIX Freedom of Choice Waiver contracted services provisions shall be available only in the New Orleans Region comprised of Orleans, St. Bernard, Jefferson, Plaquemines, and St. Charles parishes.

J. Christopher Pilley  
Secretary

### **DECLARATION OF EMERGENCY**

#### **Department of Health and Hospitals Office of the Secretary Bureau of Health Services Financing**

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, has exercised the emergency provision of the Administrative Procedure Act, R.S. 49:953(B) to adopt the following emergency rule in the Medical Assistance Program.

The bureau has amended the Medicaid standards for payment for skilled nursing, intermediate care I and intermediate care II levels of care to assure compliance with the Omnibus Budget Reconciliation Act of 1987, which became effective October 1, 1990. Emergency rulemaking is necessary to ensure compliance with mandatory federal law.

The emergency rulemaking provisions of the Administrative Procedure Act, R.S. 49:953(B) were previously exercised effective October 10, 1991 and published in the *Louisiana Register* on October 20, 1991, and January 20, 1992. This emergency rule is effective for the maximum period allowed under R.S. 49:954(B), et seq.

### **EMERGENCY RULE**

Nursing homes participating in Medicaid (Title XIX) shall be required to meet the following standards for payment for nursing home services in addition to the standards currently in effect:

1. the ratio of nursing care hours to residents shall be 2:35 on intermediate care level residents;
2. the ratio of nursing care hours to residents shall be 2:60 on skilled level residents;
3. nursing homes with a census of 101 or more shall have a full-time assistant director of nursing;
4. the assistant director of nursing shall be a registered nurse unless a written waiver has been approved by the department;
5. nursing homes shall have at least one Patient Activities Coordinator (PAC) per facility. An additional PAC per resident census in excess of 100 shall be required. All PAC employees shall be full time, or sufficient full-time equivalent employees shall be maintained to comply with these stand-

ards. Regardless of the number of PAC employees required, one full-time PAC shall be certified;

6. nursing homes shall employ one additional clerical employee.

J. Christopher Pilley  
Secretary

## DECLARATION OF EMERGENCY

### Department of Social Services Office of Community Services

The Department of Social Services, Office of Community Services has exercised the emergency provision of the Administrative Procedure Act, R. S. 49:953(B) to adopt the following rule in the Adoption Subsidy Program. Emergency rulemaking is necessary as a previous publication by the agency in the January 20, 1992 issue of the *Louisiana Register* erroneously repealed the rule that implemented the Adoption Subsidy Program. This action provides for continuation of the program and to prevent termination of Adoption Subsidy benefits to eligible children.

This emergency rule reinstates and updates the previously repealed rule in respect to the Adoption Subsidy Program. Louisiana's Adoption Subsidy Program is provided for in R.S. 46:1790-1792 and P. L. 92-272 (Title IV-E) of the U.S. Congress.

### EMERGENCY RULE

#### OVERVIEW OF PROGRAM PURPOSE

The subsidized adoption program enables the DSS 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 DSS holds full and permanent custody prior to the adoptive placement or to a special needs child, SSI or AFDC eligible, for whom a private non-profit agency holds custody and to nonrecurring adoption expenses only for special needs children who are adopted independently. 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.

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.

#### TYPES OF SUBSIDY

The child may be subsidized for the following services up to age eighteen:

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. 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. 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 types homes shall not exceed \$240. The continued need for the special board rate shall be reviewed at the time of the annual review.

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 Family Support Case Subsidy (administered by the Division of Mental Retardation and the Developmental Disabilities) authorized for the care of special needs children who are in their own homes.

3. Special Services. 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 resources is available. If needed, it can be offered in addition to the maintenance subsidy. Special services subsidies include the following type needs:

A. special medical costs for the child in connection with any physical or mental condition which existed prior to the date of the initial judgement of adoption;

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

C. other services determined to be medically necessary for the care, training and education of the child; and

D. legal and court costs or adoption under special circumstances.

Assessment must be made of the adopting family's medical insurance and of other public and voluntary community services to determine whether the costs of treatment and related costs can be covered in part or in whole by insurance and by other community services.

Reimbursement for special services will be limited to the usual and customary fee in the community where such services are rendered.

#### EXPLORATION OF ADOPTIVE RESOURCES

Before a child is certified by the Office of Community Services 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.

Whenever an eligible child has been available for adoption for at least six months and every reasonable effort has been made to place the child for adoption with Louisiana residents, adoptive parents from other states shall be eligible for a subsidy under the same conditions as Louisiana resi-

dents, except where the other state has a subsidized adoption program that is available to such non-resident parents.

**ELIGIBILITY CRITERIA**

1. Non IV-E Placements. The income scale determining eligibility for the non IV-E maintenance subsidy shall be utilized by the DSS, Office of Community Services to determine eligibility for non IV-E benefits. The scale is based on 115 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.

The Office of Community Services, 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 Office of Community Services and the prospective adoptive parents with clearly delineated terms must be signed prior to the granting of the final decree.

**Income Chart**

<u>FAMILY SIZE</u>	<u>GROSS ANNUAL INCOME</u>
1 person	\$15,399.00
2 persons	20,137.00
3 persons	24,875.00
4 persons	29,614.00
5 persons	34,352.00
6 persons	39,090.00
7 persons	39,978.00
8 persons	40,867.00
9 persons	42,052.00
10 persons	42,940.00
11 persons	43,829.00
12 persons	44,717.00
13 persons	45,606.00
14 persons	46,493.00

For each additional family member above 14 persons, add \$888 to the gross annual income.

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 otherwise 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.

**EFFECTS OF DEATHS OF ADOPTIVE PARENTS ON ADOPTION SUBSIDY**

Where an adoption subsidy agreement is in effect and the adoptive parents die prior to the adopted child reaching the age of majority, the duly designated tutor or guardian of the child may continue to receive subsidy payments on behalf of the child provided that the tutor or guardian is capable of providing a permanent home for the child in all respects other than financial, and the child's needs are beyond the resources of the tutor or guardian. In these situations, the child who was Title IV-E eligible prior to the death of the

adoptive parent(s) shall cease being eligible for these federal benefits. The child's medicaid certification as a Title IV-E adoption subsidy child shall be closed and re-opened as a non IV-E adoption subsidy child. The tutor or guardian should be encouraged to apply for survivors benefits for the child and/or AFDC.

It is extremely important to note that if the child is Title IV-E eligible, section 473 (a)(i) of the Social Security Act (the Act) prohibits the transfer of this benefit to the guardian. The Act makes no provision for payments to be made to the child or others, such as a tutor/guardian. Therefore, in these situations, the payments made by the Adoption Subsidy Program are funded with all state dollars.

Gloria Bryant-Banks  
Secretary

**DECLARATION OF EMERGENCY**

**Department of Treasury  
Board of Trustees of the State Employees Group Benefits Program**

**Plan Document**

In accordance with the applicable provisions of the Administrative Procedure Act, R.S. 49:953(B), notice is hereby given that the Board of Trustees of the State Employees Group Benefits Program has adopted several changes to the Plan Document. These changes affect the eligibility and benefits sections of the plan document.

This emergency adoption is necessary to incorporate the changes imposed by the Board of Trustees and the changes mandated by the legislature in the current plan document of benefits. Failure to do so will affect payment of health care benefits for employees of state government and participating school boards and state political subdivisions, and the dependents of such employees, who are covered by the State Employees Group Benefits Program. This emergency rule will go into effect on June 20, 1992, and will remain in effect for 120 days.

**SCHEDULE OF BENEFITS**

**COMPREHENSIVE MEDICAL BENEFITS**

Lifetime Maximum	\$750,000
Annual Automatic Restoration	\$ 4,000
Deductibles:	
Inpatient deductible per day, maximum of five days per admission (waived for accidental injury and for admissions at preferred provider hospitals)	\$ 25
Emergency room institutional charges for each visit unless the covered person is hospitalized immediately following emergency room treatment (Prior to and in addition to calendar year deductible)	\$ 50
Professional and other eligible expenses Per person, per Calendar Year	\$ 300
Family Unit maximum (three individual deductibles)	\$ 900
Percentage Payable after Satisfaction of Applicable	

**Deductibles:**

<b>Hospital Expenses:</b>	<u>Preferred Provider Hospitals</u>	<u>All Other Hospitals</u>
Hospital room and board, not to exceed the average semi-private room rate	90%	80%
Intensive Care Unit	90%	80% not to exceed 2 times the Hospital's average semi-private room rate
Hospital miscellaneous charges	90%	80%
Hospital charges for inpatient Surgery (Facility Charges Only)	90%	80%

**Other Expenses:**

Eligible expenses up to \$5,000 per calendar year, per person	80%*
Eligible expenses in excess of \$5,000 per calendar year, per person	100%*
Professional medical services and outpatient hospital charges received through a preferred provider	90% of negotiated fee

\*The \$5,000 eligible expense maximum shall not include any expenses for which 100 percent benefits are available in accordance with Article 3, Section V, Supplemental Emergency Accident (SEA) and, Section VII, Catastrophic Illness Endorsement (CIE).

**Mental and Nervous/Substance Abuse:**

Lifetime Maximum	\$ 50,000
Annual Maximum	\$ 10,000

**Benefits Payable after Satisfaction of Applicable Deductibles:**

Inpatient hospital charges authorized through utilization review:

Room and board, not to exceed the Hospital's average semi-private rate	80%*
Intensive care units, not to exceed twice the Hospital's average semi-private rate	80%*
Miscellaneous charges	80%*

Professional medical services, not to exceed Fee Schedule Maximum:

Surgery and anesthesia	80%
Other eligible expenses	80%

**OTHER MEDICAL BENEFITS**  
The following medical benefits are not subject to the Comprehensive Medical Benefits deductibles:

Supplemental Emergency Accident	\$500 maximum
Dental Surgery	Per Fee Schedule

**CATASTROPHIC ILLNESS ENDORSEMENT (Optional)**

All eligible expenses are payable at 100 percent following diagnosis of any covered disease.

Maximums for any one disease or combination thereof per lifetime:

- \$10,000 Maximum
- a) Seventy percent, or \$7,000 for inpatient Hospital expenses
- b) Thirty percent, or \$3,000 for outpatient and professional expenses
- \$5,000 Maximum
- a) Seventy percent, or \$3,500 for inpatient Hospital expenses
- b) Thirty percent, or \$1,500 for outpatient and professional expenses

\* If the Utilization Review Procedures as delineated in Article 3, Section III are not followed or the hospital admission or outpatient surgical procedure is not certified to be medically necessary, benefits otherwise payable will be reduced to 50 percent to a maximum penalty of \$2,000 per occurrence.

**ARTICLE 1  
GENERAL PROVISIONS**

**I. DEFINITIONS**

The following definitions shall apply to both the health and accident and the life insurance portions of the State Employees Group Benefits program unless otherwise indicated.

A. *Program* — the State Employees Group Benefits Program as administered by the Board of Trustees for the benefit of active and retired employees and their eligible dependents.

B. *Plan* — employee and/or dependent coverage under Comprehensive Medical Benefits, Other Medical Benefits, and the Catastrophic Illness Endorsement (health and accident only).

C. *Participant employer* — the legislative and judicial branches of state government and the departments of the executive branch receiving operating funds pursuant to legislative appropriation.

*Participant employer* shall also mean a school board (R.S. 17:1223) or a state political subdivision (authorized by law to participate in the program) which has executed an adoption instrument.

D. *Adoption Instrument* — the agreement between a school board or a political subdivision and the Board of Trustees (R.S. 42:871 et seq) for participation in the program.

E. *Employee* — a full-time employee of a participant employer, who normally works 30 hours or more a week; provided, however, that an employee whose full-time occupation normally requires less than 30 hours per week shall also be considered a full-time employee. In no event shall any person appointed on a temporary basis, as defined by Article 1, Section I (F), be considered an employee.

The term *employee* shall also include:

1. medical residents, known as house officers employed by Louisiana-owned medical facilities. The enrollment and continued participation of these medical residents will be governed by an inter-agency agreement between the program and the appropriate state agency;

2. post doctoral fellows who normally work 30 hours or more per week by training beyond their doctorate degree with an accredited institution of higher education.

F. *Temporary Appointment* — an appointment to any position for a period of 120 consecutive calendar days or less.

G. *Retiree* — an employee who was a covered employee, as defined by the terms of this plan document immediately prior to the date of retirement; and

1. upon retirement immediately received retirement benefits from an approved state or state governmental agency defined benefit plan; or, if not eligible for participation in such a plan, was employed prior to September 16, 1979, has 10 years of continuous service and has reached the age of 65, or if employed after September 16, 1979, has 10 years of state service and has reached the age of 70; or

2. upon retirement, immediately received retirement benefits from a state-approved or state governmental agency-approved defined contribution plan and has accumulated the total number of years of creditable service which would have entitled him to receive a retirement allowance from the defined benefit plan of the retirement system for which the employee would have otherwise been eligible. The appropriate state governmental agency or retirement system responsible for administration of the defined contribution plan shall be responsible for certification of eligibility hereunder to the State Employees Group Benefits Program.

H. *Covered Person* — an active or retired employee, or his eligible Dependent, or any other individual eligible for coverage under the provisions of Article 1, Section III, for whom the necessary application forms have been completed and for whom the required contribution is being made.

I. *Dependent* — any of the following persons who are enrolled for coverage as dependents, provided they are not also covered as an employee (health and accident only):

1. the covered employee's legal spouse;

2. any unmarried (never married) children from date of birth (must be added to coverage within 30 days from date acquired by completing appropriate enrollment documents in accordance with Article 1, Section IV, Adding or Deleting Dependents) to 19 years of age, dependent upon the employee for support;

3. any unmarried (never married) children 19 years of age, but under 24 years of age, who are enrolled and attending classes as full-time students and who depend upon the employee for support. The term *full-time student* shall mean students who are enrolled at an accredited college or university, or at a vocational, technical, or vocational-technical or trade school or institute, or secondary school, for the number of hours or courses which is considered to be full-time attendance by the institution the student is attending. (See Article 1, Section IV, Adding or Deleting Dependents and Article 1, Sections C through K.)

It shall be the responsibility of the plan member to furnish proof acceptable to the program documenting the full-time student status of a dependent child;

4. any dependent parent of an employee or of an employee's legal spouse, if living in the same household and if fully dependent upon the employee or upon the employee's legal spouse and who is, or will be, claimed as a dependent on the employee's federal income tax return in the current tax year, and who has resided with the covered employee for the period of 12 consecutive months immediately prior to date of such enrollment. The program will require an affidavit stating the covered employee intends to include the parent as a

dependent on his federal income tax return for the current tax year. Only dependent parents enrolled prior to July 1, 1984 shall be eligible for coverage, and continuation of coverage shall be contingent upon the payment of a separate premium for this coverage.

J. *Children* — (health and accident only):

1. any natural or legally adopted children of the employee and/or the employee's legal spouse dependent upon the employee for support;

2. any children in the process of being adopted by the employee through an agency adoption who are living in the household of the employee and who are or will be included as a dependent on the employee's federal income tax return for the current or next tax year (if filing is required);

3. such other children for whom the employee has legal custody, who live in the household of the employee, and who are or will be included as a dependent on the employee's federal income tax return for the current or next tax year (if filing is required);

4. grandchildren for whom the employee does not have legal custody, who are dependent upon the employee for support, and one of whose parents is a covered dependent as defined in Article 1, Section I (1), (2) or (3). If the employee seeking to cover her grandchild is a paternal grandparent, the program shall require that the biological father, i.e., the covered son of the plan member, execute an acknowledgement of paternity in accordance with Louisiana law (effective July 1, 1991).

K. *Date Acquired* — the date a dependent of a covered employee is acquired in the following instances and on the following dates only:

1. legal spouse - date of marriage;

2. children

a. natural children - the date of birth;

b. children in the process of being adopted:

i. agency adoption - the date the adoption contract was executed by the employee and the adoption agency, as defined in R.S. 9:421;

ii. private adoption - the date of the execution of the Act of Voluntary Surrender in favor of the employee, provided that the program is furnished with certification by the appropriate clerk of court setting for the date of execution of the Act and the date that said Act became irrevocable, or the date of the first court order granting legal custody, whichever occurs first;

c. other children living in the household of the covered employee who are, or will be included as a dependent on the employee's federal income tax return - the date of the court order granting legal custody;

d. grandchildren for whom the employee does not have legal custody, who are dependent upon the employee for support, and one of whose parents is a covered dependent as defined in Article 1, Section I (1), (2) or (3):

(1) the date of birth, provided all the requirements delineated in Article 1, Section I (J) (4) are met at the time of birth; or

(2) the date on which the coverage becomes effective for the covered dependent, if all the requirements delineated in Article 1, Section I (J) (4) are not met at the time of birth.

L. *Employee Coverage* — benefits provided hereunder with respect to the employee only.

M. *Dependent Coverage* — benefits provided hereunder



with respect to the employee's dependents only.

**N. Occupational Disease** — a disease which arises from, is contributed to, caused by, or is a consequence of any disease which arises out of or in the course of any employment or occupation for compensation or profit.

However, if the program is presented with satisfactory evidence proving that the individual concerned is covered as an employee under any worker's compensation law, occupational disease law, or other legislation of similar purpose, but the disease involved is not covered under the applicable laws or doctrine, then such disease shall, for the purpose of this plan, be regarded as a non-occupational disease.

**O. Occupational Injury** — an accidental bodily injury which arises from, is contributed to, caused by, or is a consequence of any injury which arises out of or in the course of any employment or occupation for compensation or profit.

However, if the program is presented with satisfactory evidence proving that the individual concerned is covered as an employee under any worker's compensation law, occupational disease law, or other legislation of similar purpose, but the injury involved is not covered under the applicable laws or doctrine, then such injury shall, for the purpose of this plan, be regarded as a non-occupational injury.

**P. Accidental Bodily Injury** — a localized abnormal condition of the body, internal or external, which was induced by trauma and which occurred through an event that was unforeseen and unexpected. (health and accident only)

**Q. Disability** — the covered person, if an employee, is prevented, solely because of a non-occupational disease, illness, accident or injury from engaging in his regular or customary occupation and is performing no work of any kind for compensation or profit; or, if a dependent, is prevented solely because of a non-occupational disease, illness, accident or injury, from engaging in substantially all the normal activities of a person of like age in good health. (health and accident only)

**R. Hospital** — an institution which meets all the following requirements:

1. holds a license as a hospital (if licensing is required in the state). If located outside the territorial United States, the hospital must be licensed by the country in which it is located;
2. operates primarily for the reception, care, and treatment of sick, ailing, or injured persons as in-patients;
3. provides 24-hour nursing service by licensed nurses;
4. has a staff of one or more licensed medical doctors available at all times;
5. provides organized facilities for diagnosis;
6. requires compensation from its patients for the services rendered; and
7. is not primarily an institution for rest, the aged, the treatment of pulmonary tuberculosis, a nursing home, extended care facility or remedial training institution, or facilities primarily for the treatment of conduct disorders or habitual behavior.

**S. Room and Board** — subject to the exclusionary provisions of this contract, a hospital's daily charges for room and board or the per-diem rate charged by a hospital owned and operated by one of the 50 states.

**T. Physician** - as used herein shall mean the following

persons, licensed without limitation to practice medicine and perform surgery:

1. doctor of medicine (M.D.);
2. doctor of dental surgery (D.D.S.);
3. doctor of dental medicine (D.M.D.).

The term *physician* shall also mean the following persons, licensed to practice their respective professional skills by reason of statutory authority:

4. doctor of osteopathy (D.O.) (R.S. 37:1261 et seq.);
5. doctor of podiatric medicine (D.P.M.) (R.S.37:611 et seq.);
6. doctor of chiropractic (D.C.) (R.S. 37:2801 et seq.);
7. doctor of optometry (O.D.) (R.S. 37:1041 et seq.);
8. licensed psychologist meeting the requirements of the National Register of Health Service Providers in Psychology (R.S. 37:2351 et seq.);
9. licensed board certified social worker who is a member of an approved clinical social work registry or is employed by the United States, the state of Louisiana, or a Louisiana parish or municipality, provided such person is performing professional services as a part of the duties for which he is employed (R.S. 37:2701, et seq.).

Such physicians must engage in private practice and render a charge to the covered person for professional services.

The term physician does not include social workers who are not board certified; licensed counselors; or any intern, resident, or fellow enrolled in a residency training program regardless of any other title by which he is designated or his position on the medical staff of a hospital. A senior resident, for example, who is referred to as an assistant attending surgeon or an associate physician, is considered a resident since the senior year of the residency is essential to completion of the training program. Provided, however, that effective October 1, 1977, charges made by a physician, as defined herein, who is on the faculty of a state medical school, or on the staff of a state hospital, will be considered a covered expense if such charges are made in connection with the treatment of a disease, illness, accident or injury covered under this plan and further provided that such physician would have charged a fee for such services in the absence of this provision.

It is the specific intent and purpose of the program to exclude reimbursement to the covered person for services rendered by social workers who are not board certified; licensed counselors; or an intern, resident, or fellow enrolled in a residency training program regardless of whether the intern, resident, or fellow was under supervision of a physician or regardless of the circumstances under which services were rendered.

The term physician shall not include a practicing medical doctor in the capacity of supervising social workers who are not board certified; licensed counselors; or interns, residents, senior residents, or fellows enrolled in a training program, who does not personally perform a surgical procedure or provide medical treatment to the covered person.

**U. Diagnostic X-ray and Laboratory** — procedure requiring a specimen or a procedure that produces a finished photoplate, tape or graph.

**V. Incurred Date** — the date upon which a particular service or supply is rendered or obtained. In the absence of due proof to the contrary, when a single charge is made for a series of services, each service shall be deemed to bear a



pro rated share of the charge.

**W. Custodial Care** — care designed essentially to assist an individual to meet his activities of daily living (i.e., services which constitute personal care such as help in walking, getting in and out of bed, assisting in bathing, dressing, feeding, using the toilet) and care which does not require admission to a hospital or other institution for the treatment of a disease, illness, accident or injury, or for the performance of surgery; or, care primarily to provide room and board (with or without routine nursing care, training in personal hygiene and other forms of self-care) and supervisory care by a doctor for a person who is mentally or physically incapacitated and who is not under specific medical, surgical or psychiatric treatment to reduce the incapacity to the extent necessary to enable the patient to live outside an institution providing medical care, or when, despite such treatment, there is no reasonable likelihood that the incapacity will be so reduced.

**X. Durable Medical Equipment** — medical equipment designed for repeated use and which is shown by the plan member to the satisfaction of the program to be medically necessary for the treatment of a disease, illness, accident or injury, to improve the functioning of a malformed body member, or to prevent further deterioration of the patient's medical condition. Durable medical equipment shall include, but not be limited to, such items as standard models of wheelchairs (manual), hospital beds, respirators, braces, and other items that the program may determine to be durable medical equipment, excluding any type of motorized transportation device.

In the event a plan member incurs expenses for an item such as a motorized wheelchair or similar transportation device and it is shown to the satisfaction of the program that such item is medically necessary, the program will consider as an eligible expense the pro rated cost of one standard model (manual) wheelchair.

**Y. Medically Necessary** — a service or treatment which, in the judgment of the program:

1. is appropriate and consistent with the diagnosis and which in accordance with accepted medical standards could not have been omitted without adversely affecting the patient's condition or the quality of medical care rendered; and

2. is not primarily custodial care.

**Z. Physical Therapy** — the evaluation of physical status as related to functional abilities and treatment procedures as indicated by that evaluation. Such therapy is provided by a registered physical therapist who is licensed to practice in the state where the service is rendered. Services provided must meet the following criteria: prescribed by a licensed medical doctor, require the skills of and performed by a registered physical therapist, restorative potential exists, meets the standards for medical practice, reasonable and necessary for treatment of the disease, illness, accident, injury or post-operative condition.

**AA. Rehabilitation and Rehabilitation Therapy** — care concerned with the management of patients with impairments of function due to disease, illness, accident or injury. Impairments are the physical losses themselves; disabilities are the effects of impairments on overall function of the individual.

**BB. Pain Rehabilitation Control and Pain Rehabilitation Therapy** — any program designed to develop the individual's

ability to control or tolerate chronic pain.

**CC. Rest Cure** — care provided in a sanitarium, nursing home or other facility and designed to provide Custodial Care and provide for the mental and physical well being of an individual.

**DD. Treatment** — all steps taken to effect the cure of a disease, illness, accident or injury and shall include, but not be limited to consultations, examinations, diagnoses, and any application of remedies.

**EE. Calendar Year** — that period commencing at 12:01 a.m., January 1, standard time, at the address of the employee, or the date the covered person first becomes covered under the plan and continuing until 12:01 a.m., standard time, at the address of the employee on the next following January 1. Each successive calendar year shall be the period from 12:01 a.m., January 1, standard time, at the address of the employee to 12:01 a.m., the next following January 1.

**FF. Medicare** — the health insurance available through any present or future laws enacted by the Congress of the United States, including but not limited to Public Law 89-97, known and described as Medicare, and including any amendments to such law.

**GG. Fee Schedule** — the schedule of maximum allowable charges for professional services as adopted and promulgated by the Board of Trustees in accordance with the provisions of R.S. 42:851.5 et seq.

**HH. Board of Trustees** — the entity created and empowered to administer the State Employees Group Benefits Program in accordance with the provision of R.S. 42:871 et seq.

**II. Health Maintenance Organization (HMO)** — any legal entity which has received a certificate of authority from the Louisiana commissioner of insurance to operate as a health maintenance organization in Louisiana.

**JJ. Well-Baby Care** — that routine care given in a hospital to a well newborn infant from the date of birth until discharge from the hospital.

**KK. Well-Child Care** — routine physical examinations, active immunizations, check-ups and office visits to a physician, except for the treatment and/or diagnosis of a specific illness, from the time a newborn is discharged from the hospital following birth until attainment of age seven.

## II. PERSONS TO BE COVERED

### A. Employee Coverage

1. Employee. A person as defined in Article 1, Section I (E);

2. Husband and wife, both employees. In the event the husband and wife are both eligible for coverage under the plan as employees, all eligible dependent children will be enrolled as dependents of the husband and the husband may also enroll his wife as a dependent. IN NO EVENT MAY A PERSON BE ENROLLED SIMULTANEOUSLY AS AN EMPLOYEE AND AS A DEPENDENT UNDER THE PLAN, NOR MAY A DEPENDENT BE COVERED BY MORE THAN ONE EMPLOYEE. If a covered spouse chooses at a later date to be covered separately, and is eligible for coverage as an employee, that person will be a covered employee effective the first day of the month after such election. In no event shall this change in coverage increase the benefits to the employee or dependent.

3. Effective Dates of Coverage. Each employee who makes a written request to his participant employer for

employee coverage by completing the applicable enrollment forms, and agrees to make the required payroll contributions to his participant employer is subject to the terms of Article 1, Section II, (A) (4), and is to be effective for employee coverage on the first day of the month coinciding with, or next following the completion of one calendar month's service, provided, however, that no employee coverage shall in any event become effective unless the employee makes such request within 30 days after the date of employment. Any such request for coverage after 30 days of employment will be subject to the terms of Article 1, Section II, (F) (1).

#### 4. Employee Deferral Rule

In any instance in which an employee is confined at home, in a hospital, nursing home, or elsewhere, by reason of disease, illness, accident, or injury on the date the employee would otherwise become covered under this plan, the effective date of the employee's coverage under this plan shall be deferred until the date such employee returns to active work for one full day at his customary duties and place of employment.

Notwithstanding any provisions of the preceding paragraph to the contrary, the return to active work requirement shall not serve to defer an employee's effective date of coverage in the event that the individual's normal place of employment is not open on the day he would otherwise have returned to work. If an employee is on an approved leave of absence on the day he would normally have returned to work, coverage will become effective on the day he would normally have returned to active work.

5. Re-enrollment, Previous Employment. An application for coverage by an employee of a participating employer whose employment is terminated while covered or eligible for coverage under the program and who is reemployed by the same or another participating employer within 12 months of the effective date of termination shall be considered a re-enrollment, previous employment application. A re-enrollment, previous employment applicant will be eligible for only that classification of coverage (employee only, employee and one dependent, family) in force on the effective date of termination, subject to all modifications of eligible expenses, benefits, and/or premiums which became effective in the interim.

#### B. Retiree Coverage

1. Eligibility. Each retiree, as defined in Article 1, Section I (G), of a participant employer shall be eligible for retiree coverage under this plan.

2. Effective Date of Coverage. Retiree coverage will be effective on the first of the month following the date of retirement, provided the employee and employer have agreed to make and are making the required contributions. **RETIRES SHALL NOT BE ELIGIBLE FOR COVERAGE AS OVERDUE APPLICANTS.**

3. Active Employment by a Participant Employer Following Retirement from a Participant Employer. An employee retired from one participant employer may be covered as an active employee of another participant employer or as a retiree of the agency from which he retired, but not both. In order to retain eligibility, upon termination of employment from the later participant employer, such employee shall return to the retirement group of his original participant employer within 30 days. Life insurance benefits for the employee shall be at a level no higher than that carried at the time of retirement from the original participant

employer. In no event shall any person at any time be covered by more than one participant employer.

#### C. Dependent Coverage

1. Eligibility. A dependent of an eligible employee or retiree shall be eligible for dependent coverage on the later of the following dates:

a. the date the employee becomes eligible as defined in Article 1, Section II (A) (3);

b. the date the retiree becomes eligible as defined in Article 1, Section II (B) (2);

c. the date the covered employee or covered retiree acquires, as defined in Article 1, Section I (K), a dependent.

#### 2. Effective Dates of Coverage

a. Dependents of Employees. Dependents of an employee who makes written application for dependent coverage and agrees to make the required contributions to this participant employer are to be covered for dependent benefits on the date the employee becomes eligible to carry dependent coverage or, if an overdue application, as provided for in Article 1, Section II (F).

b. Dependents of Retirees. Coverage for dependents of retirees shall be effective on the first of the month following date of retirement if the employee and his dependents were covered immediately prior to retirement. Coverage for dependents of retirees first becoming eligible for dependent coverage following the date of retirement shall be effective on the date of marriage (for new spouses of retirees), the date of birth (for newborn children of retirees), or the date acquired (for other classifications of dependents), if application is made within 30 days of the date of eligibility or, if an overdue application, as provided for in Article 1, Section II (F).

c. Dependent Deferral Rule. If a dependent, other than a newborn child of the plan member or plan member's legal spouse, is confined at home, in a nursing home, hospital, or elsewhere, by reason of disease, illness, accident, or injury on the date he would otherwise become covered under this plan, the effective date of that dependent's coverage shall be deferred until the date confinement terminates or disability ends, whichever is later.

#### D. Pre-Existing Condition

##### 1. New Employees Hired on or after April 1, 1991

a. The program will require all new employees who apply for coverage within 30 days from the date the employee became eligible for coverage to complete a Statement of Physical Condition form and sign an Acknowledgement of Pre-existing Condition form.

b. Benefits will be limited to a maximum of \$1,000 during the first 12 months of coverage for each disease, illness, accident or injury for which the covered person received treatment or services, or was prescribed drugs, during the six-month period immediately prior to the effective date of coverage.

2. Overdue Application. The terms of the following paragraphs shall apply to all eligible employees who apply for coverage after 30 days from the date the employee became eligible for coverage and to all eligible dependents of employees and retirees for whom the application for coverage was not completed within 30 days from the date acquired. The provisions of this Section shall not apply to military reservists or national guardsmen ordered to active duty who return to state service and reapply for coverage with the State Employees Group Benefits Program within 30 days of

the date of reemployment. Their coverage will be reinstated effective on the date of return to state service.

a. The effective date of coverage shall be:

(1) the first of the month following the date of the receipt by the State Employees Group Benefits Program of all required forms, if such forms are received by the State Employees Group Benefits Program prior to the fifteenth of the month.

(2) the first of the second month following the date of the receipt by the State Employees Group Benefits Program of all required forms, if such forms are received by the State Employees Group Benefits Program on or after the fifteenth of the month.

b. The program will require that all overdue applicants complete a Statement of Physical Condition form and sign an Acknowledgement of Pre-existing Condition form.

c. Medical expenses incurred during the first 24 months that coverage for the employee and/or dependent is in force under this contract will not be considered as covered medical expenses if they are in connection with a disease, illness, accident or injury for which the covered person received treatment or services, or was prescribed drugs, during the 12-month period immediately prior to the effective date of such coverage.

### 3. Political Subdivisions

The terms of the following paragraph shall apply to all new employees and dependents of new employees of political subdivisions authorized by law to participate in the program when application for coverage is made within 30 days of the date of employment.

Medical expenses incurred during the first 12 months that coverage for the employee and/or dependent is in force under this contract will not be considered as covered medical expenses if they are in connection with a disease, illness, accident, or injury for which the covered person received treatment or services, or was prescribed drugs during the three-month period immediately prior to the effective date of such coverage.

### 4. Transfer of coverage from a Health Maintenance Organization (HMO)

Effective July 1, 1990, if a covered person enrolled in an HMO voluntarily transfers coverage back to the state plan, a pre-existing condition limitation shall be imposed for a one-year period for any accident, illness or injury for which the covered person received treatment or services or was prescribed drugs during the six-month period immediately prior to the effective date of the change subject to a \$1,000 limitation; provided, however, that there shall be no pre-existing condition limitation imposed when 1) the covered person transfers coverage as a result of moving from the HMO service area or 2) when the HMO discontinues services for all state employees, unless the covered person had a pre-existing condition limitation with the State Employees Group Benefits Program at the time of the original transfer to the HMO.

### E. Members of Boards and Commissions

Except as otherwise provided by law, members of any boards or commissions are not eligible for participation in the program. This Section shall not apply to members of school boards (R.S. 17:1223) or members of state boards or commissions who normally work 30 hours or more per week in that position, at their usual place of employment. The program shall require documentation satisfactory to the

program that a board or commission member works 30 hours per week or more in that position.

### F. Legislative Assistants

In accordance with the provisions of R.S. 24:31.5(D), legislative assistants shall be eligible to participate in the program, provided (a) they are employed on a full-time basis as defined by Article 1, Section II(E) and (b) have at least one year experience or receive at least 80 percent of the total compensation as such assistants. Except as otherwise provided herein, all other eligibility provisions of Article 1, Section II shall apply.

### G. Health Maintenance Organization (HMO) Option

In lieu of participating in the Comprehensive Medical Plan employees and retirees may elect coverage under an approved health maintenance organization (HMO) operating within the zip code area of such persons' home residence.

New employees may elect to participate in an HMO during their initial period of eligibility in accordance with the effective date and eligibility provisions of Article 1, Section II. Additionally, each HMO shall hold an annual open enrollment period in April for coverage effective date of July 1 for employee and retirees electing to enter or leave the HMO. Transfer of coverage from the State Employees Group Benefits Program to the HMO or vice-versa shall only be allowed during this annual open enrollment period, for an effective date of July 1. Transfer of coverage shall also be allowed as a consequence of the employee's being transferred into or out of the HMO geographic service area, with an effective date of the first of the month following transfer. Furthermore, a plan member will not have a pre-existing condition limitation on any condition diagnosed, any accident or any injury occurring between May 1 and July 1 of the open enrollment period.

## III. CONTINUED COVERAGE

A. Leave of Absence. If an employee is allowed an approved leave of absence (full or part-time) by his employer, he may retain his coverage for a period up to but not to exceed one year, provided the full premium is paid. Failure to do so shall result in cancellation of coverage.

B. Disability. Employees who have applied for and have been granted a waiver of premium for basic or supplemental life insurance prior to July 1, 1984, may continue health coverage for the duration of such waiver, provided, however, the employee shall pay the total contribution to the employer unless he is receiving a disability retirement income from a state or political subdivision retirement plan. On or after July 1, 1984, initial applications for disability waiver of premium for basic or supplemental life insurance shall not entitle any person to continue health coverage under the program.

In the event that a state agency or political subdivision withdraws from the program, health and life coverage for all employees, including but not limited to those persons then insured by virtue of being disabled, shall terminate as of the effective date of withdrawal by the state agency or political subdivision.

C. Surviving Dependents. Benefits under this contract for the covered dependents of a deceased covered employee shall terminate at the end of the calendar month in which the employee's death occurred unless the surviving covered dependents elect to continue coverage AT THEIR OWN EXPENSE. Application for such continued coverage must be made within 60 days following the covered employee's death.

1. The surviving legal spouse of an active or retired employee may continue coverage until the spouse is eligible for health insurance coverage through an employer-sponsored medical plan, or until remarriage, whichever occurs first; provided, however, a surviving legal spouse who was effective as a surviving spouse prior to July 1, 1977, and had other group coverage at that time, will be allowed to remain as a covered person.

2. The surviving children of an active or retired employee may continue coverage until they are eligible for coverage by an employer-sponsored medical plan, or until attainment of the termination date for children, whichever occurs first.

3. Any coverage provided by CHAMPUS (Civilian Health and Medical Program of the Uniform Services) shall not be sufficient to terminate the coverage of an otherwise eligible surviving legal spouse or dependent children.

4. The provisions of this Section III(C) are applicable to surviving dependents who elect to continue coverage following the death of an employee occurring on or before June 30, 1986. The provisions of Section III(F) are applicable to surviving dependents who elect to continue coverage following the death of an employee occurring on and after July 1, 1986.

#### D. Overage Dependents

If an unmarried dependent child is incapable of self-sustaining employment by reason of mental retardation or physical incapacity, became incapable prior to the termination age for children as defined in Article 1, Section I (I) (2) and (3), and is dependent upon the covered employee for support, the coverage for such dependent child may be continued under the plan, provided, however, the program received satisfactory proof of mental retardation or physical incapacity, and only for so long as such incapacity continues.

For purposes of this Section III, D, mental illness shall not constitute mental retardation.

The program shall require that the plan member submit current proof from a licensed medical doctor of such continued mental retardation or physical incapacity as often as it may deem necessary.

E. Active Employees (Effective July 1, 1986). On and after July 1, 1986, benefits under this contract for a covered active employee shall terminate at the end of the calendar month during which employment is terminated voluntarily or involuntarily (except for gross misconduct), the employee no longer meets the definition of an employee as defined in Article 1, Section 1(E), or coverage pursuant to the provisions of Article 1, Section III(A) expires unless the covered employee elects to continue coverage AT HIS OR HER OWN EXPENSE. It shall be the responsibility of the participant employer to notify the program within 30 days of the date coverage would have terminated due to any of the foregoing events and the program shall notify the employee within 14 days of his or her right to continue coverage. Application for continued coverage must be made in writing to the program within 60 days of receipt of notification and premium payment must be made within 45 days of the date the continuation option is exercised for coverage retroactive to the date coverage would have otherwise terminated. Coverage under this Section III(E) will continue until the earliest of the following events occurs:

1. failure to pay the applicable premium;
2. coverage under another group health plan, except as

provided under Article 1, Section III (K) (4);

3. eligibility for Medicare; or

4. eighteen months from the date coverage would have terminated in the absence of this Section III(E), except as provided under Article 1, Section III (K) (6).

#### F. Surviving Dependents (Effective July 1, 1986)

On and after July 1, 1986, benefits under this contract for covered surviving dependents of a deceased covered employee or retiree shall terminate at the end of the calendar month during which the employee's or retiree's death occurs, unless the surviving covered dependents elect to continue coverage AT THEIR OWN EXPENSE. It shall be the responsibility of the participant employer or surviving dependent to notify the program within 60 days of the death of the employee or retiree and the program shall notify the surviving dependents of their right to continue coverage. Application for continued coverage must be made in writing to the program within 60 days of receipt of notification and premium payment must be made within 45 days of the date the continuation option is exercised for coverage retroactive to the date coverage would have otherwise terminated.

Coverage for the surviving spouse under this Section III(F) will continue until the earliest of the following events occurs:

1. failure to pay the applicable premium;
2. coverage under any group health plan, except as provided under Article 1, Section III (K) (5); or
3. death of the surviving spouse.

Coverage for a surviving dependent child under this Section III (F) will continue until the earliest of the following events occurs:

1. failure to pay the applicable premium;
2. coverage under any group health plan, except as provided under Article 1, Section III (K) (4);
3. thirty-six months beyond the date coverage would otherwise have terminated under the provisions of Article 1, Section I (I) (2) and (3), or Article I, Section I (J) and Article 2, Section II.

G. Divorced Spouse (effective July 1, 1986). Coverage under this contract with respect to the covered spouse of a covered employee or retiree shall terminate at the end of the calendar month during which dissolution of the marriage occurs by virtue of the granting of a legal decree of divorce from the employee or retiree, unless the covered divorced spouse elects to continue coverage AT HIS OR HER OWN EXPENSE. It shall be the responsibility of the divorced spouse to notify the program within 60 days from the date of divorce and the program shall notify the divorced spouse within 14 days of his or her right to continue coverage. Application for continued coverage must be made in writing to the program within 60 days of receipt of notification and premium payment must be made within 45 days of the date the continuation option is exercised for coverage retroactive to the date coverage would have otherwise terminated due to the divorce. Coverage for the divorced spouse under this Section III (G) will continue until the earliest of the following events occurs:

1. failure to pay the applicable premium;
2. coverage under any group health plan, except as provided under Article 1, Section III (K) (4);
3. eligibility for Medicare; or
4. thirty-six months beyond the date coverage would otherwise have terminated under the provisions of Article 2,

Section II (C).

H. Dependent Children (Effective July 1, 1986)

Benefits under this contract for a covered dependent child of a covered active employee or retiree shall terminate at the end of the calendar month during which the child no longer meets the definition of an eligible covered dependent as defined in Article 1, Section I (1)(2) and (3) or Article 1, Section J unless the employee or retiree elects to continue coverage AT HIS OR HER OWN EXPENSE. It shall be the responsibility of the employee or retiree to notify the program within 60 days of the date coverage would have terminated due to the dependent child's loss of eligibility and the program shall notify the employee or retiree within 14 days of his or her right to continue coverage with respect to that child. Application for continued coverage must be made in writing to the program within 60 days of receipt of notification and premium payment must be made within 45 days of the date the continuation option is exercised for coverage retroactive to the date coverage would have otherwise terminated due to loss of eligibility.

Coverage for a child under this Section III (H) will continue until the earliest of the following events occurs:

1. failure to pay the applicable premium;
2. coverage under any group health plan, except as provided under Article 1, Section III (K) (4);
3. eligibility for Medicare; or
4. thirty-six months beyond the date coverage would otherwise have terminated under the provisions of Article 2, Section II (C).

I. Surviving Dependents of Continuing Employees (Effective July 1, 1986). In the event a covered active employee has elected to continue coverage pursuant to the provisions of Section III (E) and if, during the period of such continuation the covered spouse or a covered dependent child becomes ineligible for coverage due to:

1. death of the employee;
2. divorce from the employee; or
3. for a dependent child, no longer meeting the definition of an eligible covered dependent as defined in Article 1, Section I (I) (1) (2) and (3) or Article 1, Section I (J), the spouse and/or dependent child may then elect to continue coverage AT THEIR OWN EXPENSE pursuant to the provisions, as applicable, of Section III (F), (G) or (H). In no event, however, may coverage be continued beyond 36 months from the date coverage would have terminated for the employee in the absence of Section III (E).

J. Dependents of Non-Continuing Employees (Effective July 1, 1986)

In the event a covered active employee no longer meets the definition of an employee as defined in Article 1, Section I (E) or coverage pursuant to the provisions of Article 1, Section III (A) has expired and the employee has not elected to continue coverage under the provisions of Section III (E), the covered spouse and/or covered dependent children may elect to continue coverage AT THEIR OWN EXPENSE. Such coverage shall be subject to the notification and termination provisions of Section III (E).

In the event a dependent child, covered under the provisions of the preceding paragraph no longer meets the definition of an eligible covered dependent as defined in Article 1, Section I (I) (2) and (3) or Article 1, Section I (J), such child may elect to continue coverage AT HIS OR HER OWN EXPENSE. Such coverage will be subject to the

notification and termination provisions of Section III (H), but in no event, however, may coverage be extended beyond 36 months from the date coverage would have terminated for the employee in the absence of Section III (E).

K. Miscellaneous Provisions

1. The continuation provisions set forth in Section III, C through J are applicable only to health and accident coverage as defined in Article 3.

2. The continuation provisions set forth in Section III, E through J are effective for loss of eligibility occurring on and after July 1, 1986.

3. During the period of continuation, benefits shall be identical to those provided to plan members enrolled in the Group Benefits Program under the program's standard eligibility provisions for active and retired employees and their dependents.

4. Effective January 1, 1990, if a covered person under this plan becomes covered under another group health plan and the latter plan contains a pre-existing condition limitation or exclusion with respect to a medical condition such covered person had prior to the effective date of the latter coverage, then such covered person may continue coverage under this plan AT HIS OR HER OWN EXPENSE, until such time as he or she would no longer qualify for benefits under the applicable provisions of Section III (E) (F) (G) or (H) or, if earlier, until such time as the pre-existing condition limitation or exclusion under the latter health plan no longer applies. The covered person shall furnish to the program any information that may be required to document the provisions of any pre-existing condition limitation.

5. Effective January 1, 1990, if a surviving spouse under this plan becomes covered under another group health plan and the latter plan contains a pre-existing condition limitation or exclusion with respect to a medical condition such surviving spouse had prior to the effective date of the latter coverage, then such surviving spouse may continue coverage under this plan AT HIS OR HER OWN EXPENSE, until the earlier of the following events:

- a. the date the pre-existing condition limitation or exclusion of the latter group health plan no longer applies;
- b. thirty-six months from the date coverage would have otherwise terminated under the provisions of Article 2, Section II; or
- c. pursuant to the other termination provisions of Article 1, Section III (F).

The surviving spouse shall furnish to the program any information that may be required to document the provisions of any pre-existing condition limitation.

6. Effective July 1, 1990, if a covered employee or covered dependent is determined by Social Security to have been totally disabled on the date the employee no longer meets the definition of employee as defined in Article 1, Section I (E) and such person elects to continue coverage pursuant to the provisions of Article 2, Section III (E) or (J), coverage under this plan for the covered person who is totally disabled may be extended AT HIS OR HER OWN EXPENSE up to a maximum of 29 months from the date coverage would have otherwise terminated in the absence of Article 1, Section III (E). To qualify under this Section III (K) (6) the covered person must submit a copy of his or her Social Security disability determination to the program before the initial 18-month continued coverage period as described in Article 1, Section III (E) or (J) expires and within 60 days

after the date of issuance of the Social Security determination. Coverage under this Section III (K) (6) will continue until the earliest of the following events:

a. thirty days after the month in which Social Security determines that the covered person is no longer disabled; covered persons must report any such determination to the program within 30 days after the date of issuance by Social Security.

b. twenty-nine months from the date coverage would have terminated in the absence of Article 1, Section III (E) or (J); or

c. pursuant to the other termination provisions of Article 1, Section III (E).

7. Effective July 1, 1990, if an employee becomes entitled to Medicare, on or before the date such employee's eligibility for benefits under this contract terminates, the period of continued coverage available for the employee's covered dependents shall be until the earliest of the following events:

a. thirty-six months from the date the employee becomes entitled to Medicare or, if greater, 18 months from the date coverage would have otherwise terminated in the absence of Article 1, Section III(E); or

b. pursuant to the other termination provisions of Article 1, Section III(E).

#### IV. ADDING OR DELETING DEPENDENTS

Notice must be furnished to the program by the plan member whenever a dependent, as defined in Article 1, Section I (I) is added to or deleted from the plan member's coverage, regardless of whether or not such addition or deletion would result in a change in the class of coverage. Such notice must be provided within 30 days of the addition or deletion of the dependent.

In the event that the addition or deletion of a dependent results in a change in the class of coverage, the provisions of Article I, Section IV (B) will apply.

#### V. CHANGE OF CLASSIFICATION

##### A. Change in Coverage

When, by reason of a change in family status (i.e., marriage, birth of child), the class of coverage is subject to change, such change shall take effect on the date of the change (i.e., marriage date or birth date), provided application from this change is made within 30 days of the date of the change.

In all cases, when a plan member acquires a new legal spouse, even when a change of classification will not result, application for coverage for this spouse must be made within 30 days of the date of marriage.

In the event a covered active employee or covered retiree does not make application with 30 days of the date he becomes eligible for a changed class of coverage, such change in coverage will be subject to the terms of Article 1, Section II (F).

B. Notification of Change or Error. It is the responsibility of the employee to notify the program of any change or error in classification of coverage or any other error affecting his contribution amount. Any such failure later determined shall be corrected on the first of the following month. All refunds of contributions shall be limited to six months from the date notice is received by the program.

#### VI. CONTRIBUTIONS

Pursuant to the provisions of R.S. 42:851, the state of Louisiana may make a contribution toward the cost of

accident and health coverage, as determined on an annual basis by the Legislature.

## ARTICLE 2

### TERMINATION OF BENEFITS

#### I. ACTIVE EMPLOYEE AND RETIRED EMPLOYEE COVERAGE

Subject to the provisions of Article 1, Section III, all benefits of a covered person shall terminate under this contract on the earliest of the following dates:

A. on the date the program terminates;

B. on the date the group or agency employing the covered employee terminates or withdraws from the program;

C. on the contribution due date if the group or agency fails to pay the required contribution for the covered employee, except when resulting from clerical or other inadvertent error on the part of the group or agency;

D. on the contribution due date if the covered person fails to make any contribution which is required for the continuation of his coverage;

E. on the last day of the month of the covered employee's death; or

F. on the last day of the month in which the covered employee ceases to be eligible within the classes eligible for coverage under this contract.

#### II. DEPENDENT COVERAGE ONLY

Subject to the provisions of Article 1, Section III, dependent coverage shall terminate under this contract on the earliest of the following dates:

A. on the date the covered employee ceases to be covered with respect to himself under this contract;

B. when the covered employee's dependent, other than a legal spouse, becomes eligible for coverage as an employee under this contract;

C. on the last day of the month in which the dependent, as defined in this contract, ceases to be an eligible dependent of the covered employee;

D. for grandchildren for whom the employee does not have legal custody or has not adopted, on the date the child's parent ceases to be a covered dependent under this contract or the grandchild no longer meets the definition of children as defined in Article 1, Section I (J) (4);

E. upon discontinuance of all dependent coverage under this contract;

F. pre-existing condition - new employees hired on or after April 1, 1991, except those presently covered as a dependent by the State Employees Group Benefits Program.

## ARTICLE 3

### MEDICAL BENEFITS

#### I. COMPREHENSIVE MEDICAL BENEFITS

##### A. Definitions

The general definitions previously indicated in Article 1, Section I, of this document entitled "Definitions" are also applicable to this Article 3, Comprehensive Medical Benefits. In addition, the following definitions shall apply only to this Article 3, Section I, Comprehensive Medical Benefits.

1. *Deductible Amount* - those amounts indicated in the Schedule of Benefits.

2. *Out-of-Pocket Expenses* - the sum of (a) any eligible medical expenses used toward the satisfaction of any deductibles for that year, not including expenses incurred for non-confined alcoholism, that satisfied all or part of the deductibles; (b) 20 percent of all such eligible medical expenses which exceed the deductibles for that calendar year



and for which benefits were paid at 80 percent; and (c) 10 percent of such eligible medical expenses for which benefits were paid at 90 percent in accordance with Article 3, Section XI.

3. **Family Unit** - a covered employee or retiree or other covered individual eligible for coverage under the provisions of Article 1, Section III and all of his covered dependents.

B. The comprehensive deductible amount shall apply with respect to each covered person, each calendar year, provided, however:

1. in no event shall any family unit be required to satisfy more than three individual comprehensive deductible amounts during any one calendar year regardless of the number of individuals in the family unit.

2. in the event more than one covered person in a family unit is injured in a common accident, only one individual comprehensive deductible amount will be required to be satisfied during the calendar year in which the accident occurs with respect to the total eligible expenses incurred as a result of the same accident by all such covered persons involved.

Any eligible medical expenses which are not related to injuries sustained in the accident will not be included with the combined eligible expenses resulting from the accident for the purpose of satisfying any deductible amount.

C. **Benefits for Eligible Medical Expenses**

When disease, illness, accident or injury requires the covered person to incur any of the eligible expenses defined herein, and such service or treatment is performed or prescribed by a physician while this coverage is in force with respect to such covered person, and after the deductible amounts as defined herein have been satisfied, the program will pay, subject to applicable limitations of the fee schedule:

1. eighty percent of the first \$5,000 of eligible expenses;

2. ninety percent of the first \$5,000 of eligible expenses in the event a covered person obtains professional medical services from an eligible provider who has agreed to provide such services at a mutually agreed upon discount from the maximum medical fee schedule adopted by the board; and

3. one hundred percent of eligible expenses in excess of \$5,000 for the remainder of the calendar year subject to the maximum amount as specified in the schedule of benefits.

D. **Maximum Benefit**

Benefits under this Article 3, Section I, Comprehensive Medical Benefits, for covered medical expenses incurred by any one covered person during any calendar year or during such person's lifetime shall not exceed the maximum amount as specified in the schedule of benefits. The maximum amount payable for treatment of other than mental and nervous conditions and alcoholism and/or substance abuse is subject to restoration as indicated in Article 3, Section I (F).

E. **Restoration of Comprehensive Medical Benefits**

If a covered person receives Comprehensive Medical Benefits under this Article 3, Section I during a calendar year, the amount of such benefits received or the maximum amount as stated in the schedule of benefits, whichever is less, shall be restored by the plan on each January 1.

F. **Eligible Expenses**

The following shall be considered eligible expenses, subject to applicable limitations of the fee schedule, under

Comprehensive Medical Benefits when prescribed by a physician and medically necessary for the treatment of a covered person:

1. the hospital's daily charge for room and board, not in excess of the maximum as specified in the schedule of benefits;

2. the hospital's daily charge for intensive care units, not in excess of the maximum as specified in the schedule of benefits;

3. anesthesia and the administration thereof;

4. surgical dressings, plaster casts, and splints;

5. x-ray examinations and therapy, laboratory examinations, basal metabolism tests, electrocardiograms and electroencephalograms, and other diagnostic procedures;

6. nuclear medicine and electroshock therapy;

7. blood and blood plasma, blood derivatives and blood processing;

8. subject to the filing requirements of Article 4, Section IV, drugs and medicines approved by the Food and Drug Administration or its successor, requiring a prescription and dispensed by a licensed pharmacist, except for birth control medication for whatever reason used or prescribed, and dietary supplements, provided, however, that Vitamin B<sub>12</sub> injections for the treatment of Addisonian Type-A Pernicious Anemia shall not be considered a dietary supplement;

9. oxygen and equipment necessary for its administration;

10. medical and surgical supplies;

11. intravenous injections and solutions;

12. services of a physician, except for other services as are excluded herein;

13. services of a physiotherapist duly licensed under the laws of the state where the services were rendered, and who is not related to the covered person by blood, marriage, or adoption;

14. services of a registered nurse (R.N.) and of a licensed practical nurse (L.P.N.) duly licensed under the laws of the state where the services were rendered, when medically necessary and prescribed by a licensed medical doctor, provided the nurse(s) are not related to the covered person by blood, marriage, or adoption, and provided the services are rendered in a hospital, as defined in Article 1, Section I (R). Services of an R.N. or L.P.N. which are being provided to a covered person on July 1, 1985, in a non-hospital treatment setting shall constitute an eligible expense until no longer certified as medically necessary by the attending medical doctor;

15. services rendered by a doctor of dental surgery (D.D.S.) or doctor of dental medicine (D.M.D.) duly licensed under the laws of the state where the service is rendered for the treatment of accidental injuries to a covered person's sound natural teeth, provided that:

a. coverage was in effect with respect to the individual at the time of the accident;

b. treatment commences within 90 days from the date of the accident and is completed within two years from the date of the accident;

c. coverage remains continuously in effect with respect to the covered person during the course of the treatment.

Eligible expenses shall be limited to the original estimated total cost of treatment as estimated at the time of initial treatment;

16. durable medical equipment required for treatment

of a non-occupational disease, illness, accident or injury when certification is submitted in writing to the program by a licensed medical doctor as to the medical necessity for the equipment and the anticipated length of time the equipment will be required for therapeutic use. The program will pay for either the rental or the purchase of one standard model of the equipment not to exceed the cost of the equipment. The program will not replace or repair equipment that has been lost, stolen, damaged, worn out or outgrown, and certification may be required at least annually by the program to determine the continued medical necessity of such equipment;

17. initial prosthetic appliances (except penile implants) required as a result of conditions caused only by a non-occupational disease, illness, accident or injury. Subsequent prosthetic appliances (except penile implants) shall be eligible only when deemed medically necessary and when certification is furnished, acceptable to the program, by the attending medical doctor;

18. professional ambulance services, subject to the following provisions:

a. ground transportation - medically necessary licensed professional ambulance service in a vehicle licensed for highway use to or from the nearest hospital with facilities to treat an illness or injury. The program will pay 80 percent of transportation charges incurred, said charges not to exceed \$200 per trip, plus 80 percent of charges for eligible medical expenses.

b. air ambulance - charges for medically necessary professional medical services and eligible medical supplies rendered in connection with licensed air ambulance transportation. Payment for actual air transportation charges shall be limited to that provided for surface ambulance services.

19. the first pair of eyeglasses or contact lenses required as a result of cataract surgery performed while coverage was in force with respect to a covered person. The program will pay in addition 80 percent of charges for eyeglass frames, as a result of cataract surgery, said charges not to exceed \$50;

20. the first two pairs of surgical support hose if deemed by a physician and the program to be medically necessary for the treatment of a physical condition, i.e., phlebitis or varicose veins. Additional surgical support hose may be considered an eligible expense at the rate of one pair per six-month period, provided the attending physician considers the continued use of such hose medically necessary for the treatment of the covered person;

21. the first two ortho-mammary support brassieres if medically necessary and prescribed by a physician for the treatment of a physical condition, i.e., mastosis, simple or radical mastectomy. Additional ortho-mammary support brassieres may be considered an eligible expense at the rate of one per six-month period, provided the attending physician considers the continued use of such brassieres medically necessary for the treatment of the covered person;

22. orthopedic shoes prescribed by a physician and custom built for a covered person;

23. acupuncture when rendered by a medical doctor duly licensed under the laws of the state where the service is rendered;

24. outpatient treatment in connection with the detection or correction by manual or mechanical means of

structural imbalance, distortion or subluxation in the human body for purposes of removing nerve interference when such interference is a result of or related to distortion, misalignment, or subluxation of or in the vertebral column, with the following limitations: the program will pay 80 percent of eligible charges incurred subject to the applicable limitations of the fee schedule, said charges not to exceed \$100 for any covered person per calendar month.

25. The program will cover eligible expenses related to the transplantation of an organ, including expenses for patient screening, organ procurement, transportation of the organ, transportation of the patient and/or donor, surgery for the patient and donor and immunosuppressant drugs. The following conditions must be met in order for this coverage to apply.

a. The transplantation must not be considered experimental or investigational by the American Medical Association.

b. The recipient must receive two opinions relative to the need for organ transplant surgery from two specialists board certified in the involved field of surgery, which specialists must certify in writing that alternative procedures, services or courses of treatment would not be effective in the treatment of the patient's condition.

c. The recipient must be admitted to and the transplant surgery performed at a medical center which has an approved transplant program as determined by an appropriate governmental agency. Coverage for organ transplantation expenses will be subject to the same deductible, co-insurance, exclusions and other provisions which apply to other expenses that the program covers. In no case will the plan cover expenses for the transportation of surgeons or family members of either the patient or donor;

26. cardiac rehabilitation therapy, subject to the following conditions:

a. the covered person must be recovering from a myocardial infarction (heart attack), or cardiovascular surgery (cardiac bypass);

b. the cardiac rehabilitation therapy must be prescribed by a licensed medical doctor who is receiving regular progress reports concerning the covered person's progress;

c. cardiac rehabilitation therapy must be conducted at a medical facility under the direct supervision of a licensed medical doctor and proper monitoring equipment and qualified medical personnel must be present during the therapy in order to effectively respond to any emergency situation which may arise;

d. all cardiac rehabilitation therapy (both inpatient and outpatient) must be completed within six months following the date of the infarction or cardiac surgery;

e. in connection with cardiac rehabilitation therapy, the program will specifically exclude dietary instruction, educational services, behavior modification literature, memberships in health clubs, exercise equipment, preventive programs and any other items or services specifically excluded from benefits pursuant to the provisions of Article 3, Section IX;

27. well-baby care expenses, including facility and professional charges, shall be considered for payment as charges incurred by the plan member or plan member's covered spouse;

28. well-child care charges shall not be subject to the annual deductible or co-payments but are limited to one office



visit per year subject to a maximum payment of \$35;

29. mammographic examinations performed according to the following schedule (effective July 1, 1992);

a. one baseline mammogram during the five-year period a person is 35-39 years of age;

b. one mammogram every 24 months for any person who is 40 through 49 years of age, or more frequently if recommended by her physician.

c. one mammogram every 12 months for any person who is 50 years of age or older.

H. Continuation of Benefits for Certain Illnesses. Pursuant to the provisions of R.S. 42:851.6, effective June 26, 1989, any covered person who was receiving benefits for an illness which: (a) did not arise from alcohol or substance abuse; (b) commenced prior to and has continued without interruption since January 1, 1987; (c) requires either inpatient confinement or supervised residential confinement; (d) is certified by a physician to be permanent and irreversible; and (e) is further certified by a physician to necessitate a lifetime of inpatient care or supervised residential care in a licensed facility shall be reimbursed for eligible medical expenses incurred on or after June 26, 1989, in accordance with the plan of benefits as set forth in the plan document in effect as of January 1, 1987.

## II. FEE SCHEDULE

A. This Section, Article 3, Section II, Fee Schedule, is effective January 1, 1990.

B. Act 1009 of the 1988 Regular Legislative Session mandated the Board of Trustees for the State Employees Group Benefits Program (SEGBP) to adopt and promulgate a schedule of maximum fees (fee schedule) for medical services, surgical services, and professional services provided in hospitals.

C. The fee schedule sets the maximum fee that the State Employees Group Benefits Program (SEGBP) will pay, notwithstanding deductibles and co-payments, for an eligible medical expense.

D. The fee schedule is geographically divided into 13 Zip Code areas for the state of Louisiana. The maximum reimbursable fee is limited to the usual and customary charges for medical services in the corresponding Zip Code area.

E. Act 1009 provides that if the medical provider accepts an assignment of benefits, the plan member cannot be billed for any amount of the charge that may exceed the fee schedule.

F. If an assignment of benefits is not accepted, the plan member can be charged for the amount in excess of the fee schedule.

G. Plan members can find out the maximum allowable charge under the fee schedule for a particular service, provided the plan member knows the Current Procedural Terminology (CPT) code for the service and the Zip Code area where the service will be performed, by calling the Claims Service Department of the State Employees Group Benefits Program (SEGBP).

H. If additional information is needed, please contact our Claim Service Department at (504) 925-6625 or Toll-Free 1 (800) 272-8451 (Louisiana Only).

## III. UTILIZATION REVIEW

Pre-Admission Certification, Continued Stay Review, and Second Surgical Opinion.

A. This Section, Article 3, Section III, Utilization

Review, is effective April 1, 1988. The provisions of Subsection E hereof are effective July 1, 1988.

B. Pre-Admission Certification (PAC) and Continued Stay Review (CSR) refer to the process used to certify the medical necessity and length of hospital confinement as a registered bed patient. PAC should be requested by plan members or plan member's dependents through the treating physician for each inpatient hospital admission.

C. PAC shall include a second surgical opinion when required by the PAC contractor. Such second surgical opinion shall be rendered by a physician approved by the contractor and the cost for the second opinion will be covered at 100 percent. The contractor may, at its option, require a third opinion which will be covered at 100 percent. Benefits provided for a second or third surgical opinion shall be subject to applicable limitations of the fee schedule.

D. In case of routine vaginal delivery precertification is not required if the length of the hospital admission is two days or less. If the hospital admissions exceeds or is expected to exceed two days, the utilization review firm must be contacted within 24 hours after the delivery of the date on which any complications arose, whichever is applicable. In the case of a scheduled Caesarean Section it is required that precertification be obtained at least 14 days prior to the scheduled hospital admission.

E. Expenses incurred on or after July 1, 1988, for which benefits would otherwise be paid under this plan will be reduced as set forth in Subsection E hereof unless PAC is requested.

1. at least 14 days prior to the planned date of admission; or

2. in the case of an emergency admission, within 72 hours after the date of admission.

F. Benefits otherwise payable under this plan will be reduced to 50 percent, subject to a maximum penalty of \$2,000 per occurrence, for:

1. hospital charges incurred during any confinement for which PAC is not performed;

2. hospital charges incurred during any confinement for which PAC is performed, which are made for any day in excess of the number of days certified through PAC or CSR;

3. hospital charges incurred during any confinement for which PAC was performed, but which was not certified as medically necessary.

4. hospital charges incurred during any confinement for which a second or third surgical opinion was required but not obtained.

G. In any case, those expenses incurred for which payment is excluded by the terms set forth in Subsection E will not be considered as eligible expenses incurred for the purpose of any other part of this plan.

## IV. CASE MANAGEMENT

A. This Section, Article 3, Section IV, Case Management, is effective October 1, 1989.

B. As used herein, case management (CM) refers to the managed care program available to covered persons in cases of serious illness or injury where critical care is required and/or treatment of extended duration is anticipated. Case management may provide, but shall not be limited to, any of the following options:

1. alternative care in special rehabilitation facilities;

2. alternative care in an extended care facility, skilled nursing facility, or the covered person's home;

3. avoidance of complications by earlier hospital discharge, alternative care and training of the patient and/or family;

4. alternative care in residential treatment centers and/or day care centers.

C. Only cases identified by the contractor on or after the effective date of this Section shall be eligible for CM.

D. All treatment, supplies or services deemed payable by virtue of this Section shall be subject to the limitations of the fee schedule as defined in Article 3, Section II of this document.

E. Any benefits which would not be payable but for the provisions of this Section shall be considered payable only upon the recommendation of the contractor, in consultation with and with the approval of the attending physician, covered person or his representative and the program. The approval of such contractual benefits by the program shall be conditioned upon the professional opinion of the program's medical director or his designee as to the appropriateness of the recommended alternative care.

F. The provisions of this Article 3, Section IV shall apply only in cases where the program is primary according to the provisions of the National Association of Insurance Commissioners (NAIC) guidelines as set forth in Article 3, Section X.

G. If a covered person has a condition which, in the opinion of the contractor is likely to be of substantial duration and/or is susceptible to care in a less expensive setting, the contractor will make available to the attending physician and the covered person an alternative plan of care for the condition, if alternative appropriate care is a medically acceptable option. The alternative plan will be developed by health care professionals and be consistent with generally accepted medical practice. The attending physician and the covered person will review the suggested alternative care plan and adopt those portions which are mutually agreeable to the program, the attending physician and the covered person or his representative.

H. The alternative care plan may detail specific treatments, different sites of care or different levels of care to the extent that the suggested services under the alternate care plan are not normally covered by the terms and conditions of the plan document, they may be reimbursed under the terms of this Section, provided, however, that the covered illness, accident or injury would have been eligible for payment, absent the provisions of this Section.

I. Payments made subject to the provisions of this Section shall be to the deductible, coinsurance and maximum benefit provisions as set forth elsewhere in this document.

J. Potential CM diagnoses, as identified by the contractor pursuant to the PAC and/or CSR provisions of Article 3, Section III may include, but shall not be limited to the following:

1. traumatic and nontraumatic brain injury;
2. spinal cord injury;
3. cerebral vascular accident;
4. severe burns;
5. high risk infants;
6. viral diseases of the central nervous system;
7. high risk pregnancies;
8. pancreatic cancer, leukemia, other cancer requiring maintenance/adjunctive chemotherapy;

9. chronic renal failure;

10. hepatitis (complicated);

11. acquired immune deficiency syndrome (AIDS), and/or

suggestive conditions;

12. multiple sclerosis, amyotrophic lateral sclerosis;

13. amputations;

14. multiple fractures.

K. Services and/or supplies not listed herein as eligible expenses may be considered covered services and/or supplies under this Section, provided that the services and/or supplies are integral to the alternative care plan and have been recommended by or to and agreed upon by PAC, the attending physician, the program and the covered person. Such services and supplies may include, but shall not be limited to:

1. home health care services including, but not limited to total parenteral nutrition, antibiotic administration, drugs and durable medical equipment not set forth in Article 3, Section I(G)(16);

2. skilled nursing or extended care facilities;

3. rehabilitation services;

4. home nursing care;

5. hospice care;

6. non-medical services and supplies used to improve the covered person's medical condition or aid in the covered person's rehabilitation.

L. Notwithstanding anything in this Article 3, Section IV to the contrary, the limitations set forth elsewhere in this document relative to eligible expenses for mental and nervous conditions and alcohol and substance abuse shall apply to case management.

#### V. SUPPLEMENTAL EMERGENCY ACCIDENT BENEFITS

A. When accidental bodily injury requires the covered person to receive treatment and incur an eligible expense within 72 hours of an accident, and services or treatment as result of such accidental bodily injury are furnished by or at the direction of a physician while this coverage is in force as to such person, the program will pay the eligible expense actually incurred, except as set forth below, and not to exceed the maximum amount payable as specified in the schedule of benefits for any one accidental bodily injury. The supplemental emergency accident benefits will be payable prior to benefits available under all other provisions of this contract, and no deductible amount shall apply to benefits payable under this Section except for the emergency room deductible as specified in the schedule of benefits. Benefits provided under this Section shall be subject to the limitations of the fee schedule.

B. Covered expenses shall include:

1. room and board charges, not to exceed the hospital's average semi-private rate;

2. intensive care unit charges, not to exceed twice the hospital's semi-private rate;

3. physician's charges for medical and surgical care;

4. care by a registered nurse or licensed practical nurse, but only during confinement;

5. anesthesia and the administration thereof;

6. charges for diagnostic x-ray and laboratory tests, either as an inpatient or outpatient;

7. treatment by a physiotherapist;

8. subject to the filing requirements of Article 4, Section IV, drugs and medicines, approved by the Food and Drug Administration or its successor, requiring a prescription and dispensed by a licensed pharmacist;

9. initial artificial limb(s) or eye(s);

10. casts, splints, trusses, crutches, and braces (dental braces are not eligible);

11. oxygen and rental of oxygen equipment;

12. rental of standard model wheelchair or hospital type bed;

13. local surface ambulance to the nearest hospital, except for charges for ambulance service for members of a pre-paid ambulance service.

C. Exclusions. No payment shall be made under supplemental emergency accident benefits with respect to:

1. any loss resulting from the contraction of a disease or illness;

2. any loss caused by or contributed to by war or any act of war, whether declared or not, or by any act of international armed conflict, or conflict involving the armed forces of any inter-national authority; or

3. expenses incurred for treatment rendered or examination made after 90 days from the date of the accident. The date of the accident shall be considered day one;

4. expenses in excess of the maximum allowable under the fee schedule;

5. other exclusions and limitations applicable to these benefits are stated in Article 3, Section IX, captioned "Exceptions and Exclusions for all Medical Benefits" hereinafter set forth.

#### VI. DENTAL SURGICAL BENEFITS

A. When disease, illness, accident or injury requires the covered person to undergo any oral surgical procedure listed in the Schedule of Dental Surgical Procedures as herein contained, and the procedure is performed by a doctor of dental surgery (D.D.S.) or doctor of dental medicine (D.M.D.) while this coverage is in force as to such person, the program will pay the eligible expense actually incurred for professional charges for such surgical procedure, including the usual pre-operative and post-operative care, not to exceed the maximum amount payable for the procedure as allowed by the fee schedule. No dental surgical benefits, except those procedures listed in the Schedule of Dental Surgical Procedures, will be considered eligible under this provision.

B. Schedule of Dental Surgical Procedures

1. incision and drainage of intraoral or extraoral abscess;

2. alveolectomy/alveoloplasty;

3. removal of ankylosed tooth;

4. apicoectomy;

5. excision of cysts of the jaw (mandible or maxilla);

6. excision of epulis fibroma;

7. excisional or incisional biopsy;

8. excision of one or more impacted teeth;

9. mandibular tori;

10. excision of torus palatinus;

11. tuberosity reduction (soft or bony tissue).

#### VII. CATASTROPHIC ILLNESS ENDORSEMENT

A. Optional at the Election of the Employee

The definitions as set forth in Article 1, Section I, are also applicable to the catastrophic illness endorsement. These catastrophic illness endorsement benefits are paid prior

to benefits available under all other provisions of this contract and shall be subject to the limitations of the fee schedule.

These benefits will be provided only to those persons who elect this coverage and agree to pay the additional premium therefor. Only those employees and dependents who are covered for Comprehensive Medical Benefits under Article 3 (except dependent parents as defined in Article 1, Section (I)(4)), are eligible for enrollment. An employee or dependent may select coverage under this benefit within 30 days of the date of employment without evidence of good health. If this endorsement is not elected within this 30-day period, the employee or dependent must furnish, without expense to the program, satisfactory evidence of good health before the coverage will become effective. The effective date of such optional benefits will be determined by the program following the receipt, by the program, of a fully completed Statement of Health and any other medical records or statements deemed necessary by the program.

Only dependents of covered employees who elect to participate in the catastrophic illness endorsement shall be considered eligible dependents for purposes of this Article 3, Section VII.

#### B. Diseases Included

Benefits will be payable under this provision if, on or after the effective date of the covered person's coverage under the policy, such person contracts one of the following diseases:

1. Cancer

2. Poliomyelitis (polio)

3. Leukemia

4. Diphtheria

5. Smallpox

6. Scarlet fever

7. Tetanus (lockjaw)

8. Spinal meningitis

9. Encephalitis (sleeping sickness)

10. Tularemia

11. Hydrophobia (rabies)

12. Sickle cell anemia

#### C. Cancer Limitation

No benefits will be provided hereunder due to, or as a result of cancer:

1. if the covered person has ever had cancer before the effective date of his coverage under this provision; or

2. until after initial pathological diagnosis thereof as cancer.

#### D. Maximum Amounts Payable and Benefit Periods

1. With respect to all diseases listed above, except cancer: the maximum liability of the program under Section VII, (E)(1), below will be 70 percent of the applicable maximum amount payable as stated in the schedule of benefits for any one disease, and the maximum liability of the program under Section VII, (E)(2), below will be 30 percent of the applicable maximum amount payable as stated in the schedule of benefits for any one disease. Benefits shall be available for expenses incurred during the three-year period immediately following the diagnosis of any of the named diseases, and not thereafter. In the event a covered person has received the maximum amount payable described herein for any one disease, such person shall become eligible for benefits under the Comprehensive Medical Benefits section of the plan, to the extent that such benefits remain unpaid.

2. With respect only to cancer: The maximum liability

of the program under Section VII, (E)(1), below will be 70 percent of the applicable maximum amount payable stated in the schedule of benefits during the LIFETIME of the covered person, and the maximum liability of the program under Section VII, (E)(2), below will be 30 percent of the applicable maximum amount payable stated in the schedule of benefits during the LIFETIME of the covered person. In the event a covered person has received the maximum amount payable described herein for cancer, such person shall become eligible for benefits under the Comprehensive Medical Benefits section of the plan.

**E. Benefits (Subject to Utilization Review)**

**1. Inpatient Benefits.** When a covered person receives care and treatment in a hospital for any of the diseases indicated above, and such care and treatment are rendered at the direction of a licensed medical doctor while this coverage is in force as to such person, the program will pay the eligible expense actually incurred for any of the following listed services, but not to exceed the maximum amount payable per benefit period specified in the schedule of benefits:

a. hospital services, including room and board, care by regular hospital attendants, and any hospital apparatus used in the treatment of such disease;

b. services of a registered nurse (R.N.) and of a licensed practical nurse (L.P.N.) duly licensed under the laws of the state where the services were rendered, when medically necessary and prescribed by a licensed medical doctor, provided the nurse(s) are not related to the covered person by blood, marriage, or adoption. Such services shall be payable only when rendered in a hospital, as defined in Article 1, Section I (R).

c. use of support and mechanical apparatus used in treatment;

d. blood transfusions — all charges for blood or plasma and transfusion services;

e. drugs and medicines — all expenses incurred for medicines used in the treatment of the disease, provided such drugs and medicines are approved by the Food and Drug Administration or its successor; and

f. X-ray and physiotherapy — all such services required for diagnosis and treatment

1) services of a physiotherapist duly licensed under the laws of the state where the services were rendered, and who is not related to the covered person by blood, marriage, or adoption;

2) x-ray — all charges for such services prescribed by a licensed medical doctor and required for diagnosis and treatment.

**2. Outpatient Benefits and Professional Services**

When a covered person receives care and treatment for any of the diseases indicated above, and such care and treatment is rendered at the direction of a licensed medical doctor while this coverage is in force as to such person, the program will pay the eligible expense actually incurred for any of the following listed expenses, but not to exceed the maximum amount payable per benefit period specified in the schedule of benefits:

a. professional fees of the attending physician, consulting physicians, and medical specialists;

b. professional fees of anesthesiologists not employed by a hospital;

c. drugs and medicines — all expenses incurred for medicines requiring a prescription, approved by the Food and

Drug Administration or its successor, used on an outpatient basis for the treatment of the disease;

d. transportation — the fare for conveyance of the covered person and one medical attendant by ambulance, rail, air, or other public carrier directly to any hospital, when the attending physician considers such trip and mode of travel necessary to the proper treatment of the covered person; and

e. durable medical equipment, as defined in Article 1, Section I (X).

**VIII. MEDICARE REDUCTION**

Except as may otherwise be provided for by law, all benefits for services and supplies payable under all sections of this policy will be reduced when benefits are paid or payable through any present or future laws enacted by Congress of the United States including but not limited to Public Law 89-97, known and described as Medicare.

The charge for a service or supply will be reduced by whatever amounts are paid or payable by Medicare. The program shall require written confirmation from the Social Security Administration or its successor that a plan member or his dependent is not eligible for Medicare coverage. All provisions of this contract, including all limitations and exceptions, will be applied to the balance, and benefits will be paid accordingly.

**IX. EXCEPTIONS AND EXCLUSIONS FOR ALL MEDICAL BENEFITS**

No benefits are provided under this contract for:

A. cases covered, in whole or in part, by a worker's compensation program, whether insured or self-funded, regardless of whether the covered person has filed a claim for benefits. This applies to compensation provided on an expense incurred basis or blanket settlements for past and for future loss;

B. unless otherwise provided for by law, services or supplies furnished by the Veterans Administration;

C. services or supplies furnished under the laws of the United States or any state or political subdivision; provided, however, that benefits otherwise payable under the plan will be payable if the covered person is rendered services, for which he is charged, in a publicly owned charity hospital;

D. convalescent, sanitarium, or custodial care or rest cures;

E. expenses for elective, nontherapeutic voluntary abortion, provided, however, that expenses for complications arising therefrom shall be considered as eligible.

F. intentionally self-inflicted injuries, injuries sustained while in an aggressor role, or any attempt at suicide;

G. any medical expense incident with or caused by any covered person's attempt at a felony or misdemeanor;

H. expenses incurred while a covered person in connection with cosmetic surgery, unless necessary for the immediate repair of a deformity caused by a non-occupational disease, illness, accident or injury which occurs while coverage is in force; provided, however, no payment shall be made for expenses incurred in connection with the treatment of any body part not affected by the non-occupational disease, illness, accident or injury;

I. expenses incurred for shoes and related items such as wedges, cookies, arch supports, except as indicated in Article 3, Section I, (G) (22);

J. any expense except for actual out-of-pocket expenses incurred by a member of a health maintenance organization (HMO), health maintenance plan (HMP), or other

prepaid medical plan or medical services plan enrolled in such plan on a group (employer-sponsored) basis;

K. dental braces and orthodontic appliances for whatever reason prescribed or utilized; treatment of periodontal disease; dentures, dental implants and any surgery for the use thereof; except as indicated in Article 3, Section G (15);

L. any medical services, treatment or prescription drugs provided without charge to the insured or for which the covered person is not legally obligated to pay;

M. maternity expenses incurred by, or on behalf of, any person other than the covered employee or the covered employee's legal spouse;

N. personal convenience items including, but not limited to, admit kits, bedside kits, telephone and television, guest meals and beds and similar items;

O. charges for services, supplies, or treatment which are in excess of the maximum allowable under the fee schedule or any other limitations set forth in the plan;

P. services and supplies which are not medically necessary, as defined in Article 1, Section I (Y);

Q. services rendered for remedial reading and recreational, visual and behavioral modification therapy, pain rehabilitation control and dietary or educational instruction for any disease, illness, or condition;

R. services, supplies, or treatment in connection with or related to: gender dysphoria or reverse sterilization, or any attempts of these procedures; any diagnostic or treatment measures which are not recognized as generally accepted medical practice; surgery for excess fat in any area of the body; resection of excess skin or fat following weight loss or pregnancy;

S. artificial organ implants, penile implants, transplantation of other than Homo sapiens (human) organs, in vitro fertilization, and artificial insemination;

T. air conditioners and/or filters, dehumidifiers, air purifiers, wigs or toupees, heating pads, home enema equipment, rubber gloves, swimming pools, saunas, whirlpool baths, home pregnancy tests, lift chairs, devices or kits to stimulate the penis, exercise equipment, and any other items not normally considered medical supplies;

U. administrative fees, interest, or penalties;

V. marriage counseling and/or family relations counseling;

W. birth control medication or devices, for whatever reason used or prescribed, appetite suppressant drugs, dietary supplements, vitamins; except Vitamin B12 injections for the treatment of Addisonian Type-A Pernicious Anemia.

X. charges for services rendered over the telephone from a physician to a covered person;

Y. radial keratotomy or any procedures for the correction of refractive errors;

Z. speech therapy, except when ordered by a physician for the purpose of restoring partial or complete loss of speech resulting from stroke, surgery, cancer, radiation laryngitis, cerebral palsy, accidental injuries or other similar structural or neurologic disease;

AA. services, supplies, or treatment in connection with or related to obesity;

BB. expenses for the transportation of surgeons or family members of either the patient or the donor in connection with organ transplants;

CC. charges for cardiac rehabilitation therapy

conducted more than six months following the date of a myocardial infarction or cardiovascular surgery;

DD. hearing aids, or any examination to determine the fitting or necessity thereof;

EE. hair transplants;

FF. eyeglasses or contact lenses or any examination for the prescription or fitting thereof, except as provided in Article 3, Section (G) (19);

GG. routine physical examinations or immunizations, except as provided in Article 3, Section (G) (28);

HH. charges for ambulance service for members of a pre-paid ambulance service.

#### X. COORDINATION OF BENEFITS

##### A. Definitions as Applied to this Provision

1. *Plan* - any plan providing benefits or services for or by reasons of medical, dental, or vision care or treatment under:

a. group insurance;

b. group practice, group Blue Cross, group Blue Shield, individual practice offered on a group basis, or other group prepayment coverage;

c. labor management trustee plan, union welfare plans;

d. health maintenance organization (HMO) or other pre-paid medical plan in which the covered person is enrolled on a group (employer-sponsored) basis.

2. *Allowable Expense* - any medically necessary, eligible item of expense, at least a part of which is covered under one of the plans covering the person for whom claim is made.

3. *Claim Determination Period* - a calendar year. However, if a person is not eligible for benefits under this plan during all of the calendar year, then the claim determination period for such person, as to that year, shall be the total period during which he was eligible for benefits.

4. *Program* - the State Employees Group Benefits Program.

##### B. Primary Plan and Secondary Plan

All benefits provided under this Article 3, Comprehensive Medical Benefits, are subject to coordination of benefits.

This provision is applicable when the total benefits that would be payable by this plan in the absence of any coordination of benefits provision and the total benefits payable under all other group plans insuring a covered person, exceed expenses incurred during a claim determination period.

One of the two or more plans involved is the primary plan and the other plan(s) are secondary plan(s). The primary plan pays benefits first and without consideration of the other plan(s). The secondary plan(s) then provide the difference up to, but not in excess of, the total allowable expenses. No plan will pay benefits greater than it would have paid in the absence of coordination of benefits.

##### Order of Benefit Determination

If an individual is covered by more than one group plan, the order of benefit determination shall be in accordance with the coordination of benefit guidelines, as amended, established by the National Association of Insurance Commissioners, except for health maintenance organizations or other types of employer-sponsored prepaid medical plans.

C. *Effect on Benefits*. Benefits paid by the secondary carrier shall be reduced to the extent necessary to assure the

payment of up to but not in excess of 100 percent of all allowable expenses. Each benefit of the contract will be reduced by the amount that would have been payable in the absence of this provision.

D. Health Maintenance Organizations (HMOs). In the event that a covered person who is enrolled in the indemnity plan is also covered as a dependent under a health maintenance organization contract, the program will consider the HMO as primary carrier in all cases. The plan will consider as eligible only those actual out-of-pocket expenses incurred by the covered person and for which the covered person is legally obligated to pay.

E. Preferred Provider Organizations (PPO). In the event that a covered person who is enrolled in the indemnity plan is also covered as a dependent under a PPO contract, the plan will consider as eligible only those expenses actually incurred by the covered person under the terms of the PPO contract, and for which the covered person is legally obligated to pay.

#### **XI. PREFERRED PROVIDER PROGRAMS**

The Board of Trustees may implement from time to time, at its sole discretion, Preferred Provider Organization arrangements or other agreements to discount payable fees. The board reserves to itself the right to negotiate the amount of the discount, the incentives to be offered to plan members and all other provisions which shall be a part of any discount fee arrangement.

In the event a covered person obtains professional medical services from an eligible provider who has agreed to provide such services at a mutually agreed upon discount from the maximum medical fee schedule adopted by the board, the program will pay, following satisfaction of all applicable deductibles, 90 percent of the first \$5,000 of eligible expenses and 100 percent of eligible expenses in excess of \$5,000 for the remainder of the calendar year subject to the maximum amount as specified in the schedule of benefits effective July 1, 1990.

### **ARTICLE 4**

#### **UNIFORM PROVISIONS**

##### **I. STATEMENT OF CONTRACTUAL AGREEMENT**

This written contract as amended and any documents executed by or on behalf of the covered employee constitute the entire contract between the parties.

##### **II. DEADLINE FOR FILING CLAIMS**

A properly submitted claim form for benefits as a result of any disease, illness, accident or injury must be received by the State Employees Group Benefits Program by 4:30 p.m., close of business, on June 30 next following the end of the calendar year in which the medical expenses were incurred. When June 30 is a non-work day, the deadline is automatically extended to 4:30 p.m. of the next regular workday. Each expense shall constitute a separate claim.

##### **III. CLAIM FORMS**

The program shall furnish all participant employers with claim forms. A PROPERLY COMPLETED CLAIM FORM, SIGNED BY THE PLAN MEMBER, IS REQUIRED TO BE SUBMITTED WITH EVERY CLAIM. If the program receives a bill without a completed claim form, the program has the right to require additional documentation in order to determine the extent of coverage, if any, under this plan.

The program, through its physician, shall have the right and opportunity to examine the covered person, whose disease, illness, accident or injury is the basis of claim, when and as often as it may reasonably require during pendency of

the claim under this contract.

##### **IV. FILING CLAIMS FOR PRESCRIPTION DRUGS**

The program shall require a medical statement signed by a licensed physician, at least once a year, for expenses incurred on a continuing basis for prescription drugs and/or medical supplies.

##### **V. RIGHT TO SELECT PHYSICIAN OF CHOICE**

Subject to any agreements for participation in a health maintenance organization (HMO), health maintenance plan (HMP), or other prepaid medical plan, the covered person shall have the sole right to select his own physician, surgeon, and hospital; and the physician-patient relationship shall be maintained.

##### **VI. RIGHT TO RECEIVE AND RELEASE INFORMATION**

The program may release to, or obtain from any company, organization, or person, without consent of or notice to any person, any information regarding any person which the program deems necessary to carry out this provision, or like terms of any plan, or to determine how, or if, they apply. Any claimant under this plan shall furnish to the program such information as may be necessary to implement this provision.

##### **VII. FACILITY OF BENEFIT PAYMENT**

Whenever payments, which should have been made under this plan in accordance with this provision, have been made under any other plan, the program shall have the right, exercisable alone and in its sole discretion to pay over to any organization making such other payment any amounts it shall determine to be warranted in order to satisfy the intent of this provision and amounts so paid shall be deemed to be benefits paid under this plan. To the extent of such payments, the program shall be fully discharged from liability under this plan.

##### **VIII. COOPERATION OF EMPLOYEE**

The employee shall be required to furnish the program, upon request, any information which the program may require to implement the provisions of the contract. Such requests for information shall include, but not be limited to, a verification of the student status of dependent children between the ages of 19 and 24 and the dependency status of covered dependents. Failure to furnish the requested information shall constitute reason for denial of benefits.

##### **IX. INTERIM PAYMENT**

The program may, at its option, make interim payment for losses incurred on a continuing basis.

##### **X. PAYMENTS TO BENEFICIARY OR ESTATE**

Any benefits payable for expenses incurred prior to the death of a covered person shall require one of the following documents in order to pay benefits to the beneficiary or the estate:

A. a notarized copy of the will;

B. in the absence of a will, a certified copy of the court order appointing an administrator or executor of the estate; or

C. in the absence of a will or an order appointing an executor or administrator, the program may pay benefits up to \$1,000 to any relative by blood or connection by marriage to the covered person who has been deemed by the program to be equitably entitled thereto and who has completed a "Request to Pay Proceeds Form" completed in triplicate and notarized. This form can be obtained from the Group Benefits Program's office and any such payment made in good faith under the terms of this provision shall fully discharge the program from liability to the extent of such payment.



## **XI. LEGAL LIMITATIONS**

No legal action shall be brought against the program to attempt to recover benefits allegedly due pursuant to this contract until the plan member has exhausted all administrative remedies through the appeal of the claim to the Claims Review Committee as provided in Article 5. Legal actions may be brought against the program in accordance with and subject to the time limitations delineated in Article 5.

## **XII. RIGHT TO AND MEANS OF RECOVERY**

A. The program may recover overpayments from the covered person, provider of medical services, any insurance company or other organization, and from future claims of the covered employee, covered dependents, or any combination thereof.

B. Should legal action be required to recover overpayments made as a result of fraudulent statements or deliberate omissions on the application or claim form or any part thereof, the defendant will be responsible for attorney's fees of 25 percent of the overpayment or \$500 whichever is greater. The defendant will also be responsible for court costs and legal interest from date of judicial demand until paid.

## **XIII. SUBROGATION AND REIMBURSEMENT**

A. Upon payment of any eligible benefits covered under this plan, the program shall succeed and be subrogated to all rights of recovery of the covered employee, his dependents or other covered persons, or their heirs or assigns, for whose benefit payment is made, and they shall execute and deliver instruments and papers and do whatever else is necessary to secure such rights, and shall do nothing after loss to prejudice such rights.

B. The program shall be entitled, to the extent of any payment made to a covered employee, his dependents or other covered persons, to the proceeds of any settlement or judgment that may result from the exercise of any rights of recovery of a covered employee, his dependents or other covered persons, against any person or entity legally responsible for the disease, illness, accident or injury for which said payment was made. To this end, covered employees, their dependents, or other covered persons agree to immediately notify the program of any action taken to attempt to collect any sums against any person or entity responsible for the disease, illness, accident or injury.

## **XIV. EMPLOYER RESPONSIBILITY**

It shall be the responsibility of the entity responsible for the reconciliation of the monthly invoices for an employee or retiree to submit enrollment and change forms and all other such necessary documentation to the program in a professional and timely manner. Employees of said entity shall not, by virtue of furnishing any documentation to the program on behalf of a plan member, be considered agents of the program, and no representation made by any such person at any time shall change the provisions of this contract. It shall be the responsibility of said entity to remit the entire monthly premium, consisting of the employee and the participant employer portions (if applicable), and a properly reconciled monthly invoice within 30 days after the date the payment and reconciled invoice are due. In the event complete payment and a properly reconciled invoice are not received within this 30-day period, in addition to other actions available to the program through operation of law, the payment of claims on behalf of the employees of the

delinquent participant employer may, at the option of the program, be suspended until such time as complete payment and a properly reconciled invoice are received by the program.

## **XV. GROUP BENEFITS PROGRAM RESPONSIBILITY**

It shall be the responsibility of the program to adjudicate claims on behalf of plan members at all times using accepted industry standards, profiles, and techniques. The program reserves the right to adopt any administrative policies and procedures as may be necessary to interpret the intent and provisions of this plan, provided; however that no policy or procedure shall be adopted which is in direct conflict with any provision specifically stated herein.

## **XVI. REINSTATEMENT TO POSITION FOLLOWING CIVIL SERVICE APPEAL**

A. Indemnity Plan Participants. When coverage of a terminated employee who was a participant in the health indemnity plan is reinstated by reason of a civil service appeal, coverage shall be reinstated to the same level in the health indemnity plan retroactive to the date coverage terminated. The employee and participant employer shall be responsible for the payment of all premiums for the period of time from the date of termination to the date of the final order reinstating the employee to his position. The program shall be responsible for the payment of all eligible benefits for charges incurred during this period. All claims for expenses incurred during this period must be filed with the program within 60 days following the date of the final order of reinstatement.

B. Health Maintenance Organization (HMO) Participants. When coverage of a terminated employee who was a participant in an HMO is reinstated by reason of Civil Service appeal, coverage shall be reinstated in the HMO in which the employee was participating effective on the date of the final order of reinstatement. There shall be no retroactive reinstatement of coverage and no premiums will be owed for the period during which coverage with the HMO was not effective.

## **XVII. CONTRACT AMENDMENTS OR TERMINATION**

The state of Louisiana, Board of Trustees of the State Employees Group Benefits Program has the statutory responsibility of providing health and accident and death benefits for covered persons to the extent that funds are available for such benefits. The board specifically reserves to itself the unilateral right to terminate or amend the eligibility and benefit provisions of its contracts from time to time as it may deem necessary to prudently discharge its duties. Any such termination or modifications shall be promulgated subject to the applicable provisions of law, and nothing contained herein shall be construed to guarantee or vest benefits for any participant, whether active or retired.

## **XVIII. PLAN INFORMATION**

All documents and other contracts referenced herein are available for inspection upon request at the offices of the State Employees Group Benefits Program, located at 5825 Florida Boulevard, Baton Rouge, Louisiana 70806. Additional information about the plan may be obtained by writing to: executive director for the State Employees Group Benefits Program at P.O. Box 44036, Capitol Station, Baton Rouge, Louisiana 70804.

## **ARTICLE 5 CLAIMS REVIEW AND APPEAL**

This section establishes and explains the procedures for review of benefit and eligibility decisions by the program.



## I. DEFINITIONS

As used in this Section, the following definitions apply:

A. *Plan member* — a covered person other than a dependent.

B. *Covered person* — defined in Article 1, Section 1 (H).

C. *Appealing party* - a plan member affected by an initial determination.

D. *Initial Determination* — a formal written decision by an employee of the board who has reviewed a claim for benefits under a provision of the program.

E. *Appeal* — a request for and a formal review of an initial determination, in accordance with the procedures established and explained in this Section.

F. *Representative* —

1. the authorized parent or tutor of an unemancipated minor; or

2. the curator of an interdict; or

3. an attorney who is a member in good standing of the Bar of the state of Louisiana.

G. *Director* — the executive director of the program.

H. *Committee* — the Claims Review committee of the board.

I. *Referee* — a hearing officer employed by the board, to whom an appeal may be referred for hearing.

J. *Party to a Hearing* — the appealing party and the program.

## II. NOTICE OF INITIAL DETERMINATION

Notice of an initial determination shall be mailed to the plan member at the last known address. Payment of a claim, along with an Explanation of Benefits (EOB) constitutes notification. In each instance when a claim is decided, an EOB is sent to the plan member. When an initial determination results in the disallowance of a claim, in whole or in part, the notice of determination shall inform the plan member of the right to review and appeal in accordance with this Section, and that a request for review must be received by the director of the program within 90 days of the date of the notice.

## III. CLAIMS REVIEW AND APPEAL PREREQUISITE TO LEGAL ACTION

The initial determination becomes final, and no legal action shall be brought against the program to attempt to establish eligibility or to recover benefits allegedly payable under the program, unless a request for review is made in accordance with the provisions of Subsection IV of this Section.

## IV. REQUEST FOR REVIEW

A plan member, affected by an initial determination, may appeal the determination in the following manner:

A. The appeal must (a) be in writing; (b) be signed by the appealing party or representative; (c) give the name and address of the appealing party or representative, if any; (d) contain a clear and concise statement of the matter in dispute and the basis of the appeal; and (e) include a copy of the applicable determination.

B. The appeal must be filed with the director, within 90 days of the date of the notice of initial determination. An appeal shall be deemed filed on the date it is received in the office of the director. The director shall cause the date of filing to be noted on each appeal.

## V. CLAIMS REVIEW COMMITTEE

The chairman of the board shall appoint a Claims Review committee to sit in panels of not less than three members.

A. The committee shall have the authority to hear and decide all appeals.

B. The committee may appoint a referee to take testimony in and to hear all appeals.

## VI. ASSIGNMENT OF APPEALS FOR HEARING

The director shall fix the time and the place for the hearing of appeals by the committee. If a referee has been appointed to hear an appeal, the referee shall fix the time and place for hearing the appeal, with the director's approval.

A. All appeals before the committee shall be heard in a convenient place in the City of Baton Rouge, selected by the director. All appeals before a referee shall be heard in a convenient place, selected by the referee, with the director's approval.

B. Notice of the time and place fixed for the hearing shall be mailed to the appealing party at least 20 calendar days prior to the date of the hearing.

C. Appeals shall be heard as soon as reasonably possible. No continuance shall be granted except for compelling cause. An appeal fixed for hearing may be continued, without prejudice to the appealing party, (a) by the director, the committee, or the referee in a referred case, upon a showing of compelling cause, at the request of any party; or (b) if it is not reached for hearing. An appeal fixed for hearing and not reached shall be reassigned by preference over any appeal continued for any other reason and any appeal subsequently filed. Written notice of the time and place of the continued hearing shall be mailed to the appealing party; except when a continuance is ordered during a hearing, oral notice of the time and place of the continued hearing may be given to the appealing party present at the hearing.

## VII. PROCEDURE FOR HEARING APPEALS

A. Because of the personal and confidential nature of the matters to be considered, hearings shall be closed to the public. However, the appealing party or representative may request an open hearing. In that event, the hearing will be open except to the extent that other legitimate purposes can only be protected by closing portions of the hearing.

B. The appealing party shall have the right, but shall not be required, to be represented at the hearing by legal counsel who is a member in good standing of the Bar of the state of Louisiana.

C. The committee or referee shall control the hearing in a manner best suited to ascertain the facts and safeguard the rights of the parties to the hearing.

D. The basis of the initial determination which is the subject of review shall be presented to the committee or referee first. The appealing party, or representative, will then be given the opportunity to demonstrate why this determination should be held in error. The program will then be given the opportunity to present the case in support of the initial determination.

E. Testimony shall be taken only on oath, affirmation, or penalty of perjury. The committee, the director, and referee shall have the power to administer oaths and affirmations as well as other powers granted in this Section and by law.

F. Each party to the hearing shall have the right to call and examine all other parties to the hearing and their witnesses; to introduce exhibits; to question opposing witnesses and Parties to the hearing on any matter relevant to the issue, even though the matter was not covered in the

direct examinations; to impeach any witness regardless of which party to the hearing first called the witness to testify; and to rebut any evidence presented.

G. Any relevant evidence shall be admitted if it is the support of evidence on which responsible persons are accustomed to rely in the conduct of serious affairs, regardless of the existence of any statutory or other rule of law which might make improper the admission of such evidence over objection in a civil or criminal proceeding.

H. The committee or referee may question any party to the hearing or witness and may admit any relevant and material evidence.

I. The appealing party has the burden of proving whatever facts are necessary to support the opposition to the initial determination.

J. If, after the hearing has begun, the committee or referee determines that additional evidence is necessary for the proper determination of the case, (a) the hearing may be continued to a later date and any party to the hearing ordered to produce additional evidence; or (b) the hearing may be closed, and the record held open in order to permit the introduction of additional documentary evidence. The committee or referee may order a further hearing if the nature of the additional evidence or the refutation thereof makes further hearing desirable.

K. At the request of any party to the hearing made prior to the close of the hearing, the committee or referee shall grant oral argument. If written argument is requested, it may be granted and, if granted, the parties to the hearing shall be advised as to the time and manner within which such argument is to be filed. The committee or referee may require any party to the hearing to submit written memorandum pertaining to any or all issues raised in the hearing.

L. A verbatim taped record will be made of the hearing and made a permanent part of the committee's records. An actual typed transcript of the hearing will be made only when determined to be necessary at the hearing, or subsequently, if legal action results, at the cost of the party requesting the transcript.

## VIII. SUBPOENA OF WITNESS; PRODUCTION OF DOCUMENTS

A. The committee, each member thereof, the director, and referee to whom an appeal has been referred shall have the power to order the attendance and giving of testimony by witnesses and the production of books, papers, and other documentary evidence.

B. The committee or referee may order the production or inspection of any records or relevant portions of records in the possession of the program when necessary to decide the issues in any appeal or to assist an appealing party in preparing for the proceeding. A request by an appealing party, or representative for an order to produce or inspect records of the program shall be in writing and shall state clearly the information desired, the records desired to be produced or inspected, and the reason therefor.

C. No subpoena will be issued requiring the attendance and giving of testimony by witnesses unless a written request therefor is received in the office of the director no later than 15 calendar days before the date fixed for the hearing. The request for subpoenas shall contain the names of the witnesses, the street addresses at which the witnesses can be served, and a brief statement of what is intended to be

proved by each witness. No subpoenas will be issued until the party requesting the subpoenas deposits with the director a sum of money sufficient to pay all fees and expenses to which a witness in a civil case is entitled pursuant to R.S. 13:3661 and 3671.

D. No subpoena for the production of books, papers and other documentary evidence will be issued unless written request therefor is received in the office of the director no later than 15 calendar days before the date fixed for the hearing. The request for subpoena for books, papers, and other documentary evidence shall contain a description of the items to be produced in sufficient detail for identification and shall contain the name and street address of the person who is to be required to produce the items and a brief statement of what is intended to be proved by each item.

## IX. APPEAL DECISION

A. Appeals Heard by the Committee. At the conclusion of the hearing, the committee shall take the matter under submission and, as soon as is reasonably possible thereafter, render its decision in the case which will be based on the evidence adduced at the hearing or otherwise included in the hearing records. The decision will contain a statement of reasons for the decision and will be submitted to the director. The director shall send a copy of the decision by certified mail to the appealing party and any representative thereof.

B. Appeals Heard by Referee. At the conclusion of the hearing, the referee shall take the matter under submission and, as soon as is reasonably possible thereafter, prepare a recommended decision in the case which will be based on the evidence adduced at the hearing or otherwise included in the hearing records. The decision will contain findings of fact and statement of reasons. The recommended decision will be submitted to the director for review.

The recommended decision will be reviewed by the director, who may concur without comment or whom may prepare a written opinion of the recommendation.

1. If the referee finds for the appealing party and the director concurs, no further review is required and the appealing party, and any representative will be so notified by the director through certified mail.

2. If the referee finds against the appealing party, or the director disagrees with the recommended decision, the director shall submit the referee's decision, along with concurrence or a statement of reasons for disagreement to the committee.

3. The committee may adopt or reject the recommended decision. In the case of adoption, the referee's decision becomes the decision of the committee. In the case of rejection, the committee shall render its decision which will include a statement of reasons for disagreement with the referee's decision. The decision of the committee will be submitted to the director, who shall send a copy by certified mail to the appealing party and any representative thereof.

## X. REHEARING

A. An appealing party aggrieved by an appeal decision of the committee may request a rehearing only on the grounds that:

1. the decision is clearly contrary to the law and the evidence;

2. the appealing party has discovered, since the hearing, evidence important to the issues which could not have, with due diligence, been obtained before or during the hearing;

3. there is a showing that issues not previously considered ought to be examined in order to properly dispose of the matter; or

4. there is other good ground for further consideration of the issues and the evidence.

B. The request for rehearing must (a) be in writing; (b) be signed by the appealing party or representative; (c) set forth the grounds which justify rehearing; and (d) contains a clear and concise statement of the reasons in support thereof.

C. The request for rehearing must be filed with the director on or before 30 calendar days after the mailing of the appeal decision of the committee. The request shall be deemed filed on the date it is received in the office of the director. The director shall cause the date of filing to be noted on each request for rehearing.

D. When a rehearing is denied by the committee, the director shall so notify the appealing party and any representative thereof by certified mail.

E. When a rehearing is granted by the committee, an order shall be issued setting forth the grounds therefor. The director shall send a copy of the order, along with notice of the time and place fixed for the rehearing, to the appealing party and any representative by certified mail.

F. On rehearing, the matter shall be heard by the committee and shall be confined to those grounds upon which the rehearing was granted.

G. When an appeal has been decided on rehearing, another request for rehearing will not be considered.

#### XI. JUDICIAL REVIEW

An appealing party aggrieved by a final decision of the committee is entitled to judicial review in accordance with R.S. 49:964.

James R. Plaisance  
Executive Director

#### DECLARATION OF EMERGENCY

##### Department of Wildlife and Fisheries Office of Fisheries

In accordance with the emergency provisions of R.S. 49:953(B), the Administrative Procedure Act, R.S. 49:967 which allows the Department of Wildlife and Fisheries and the Wildlife and Fisheries Commission to use emergency procedures to set finfish seasons, and R.S. 56:317 which provides that the secretary of the department may declare a closed season when it is in the best interest of the state; the secretary of the Department of Wildlife and Fisheries hereby finds that an imminent peril to the public welfare exists and accordingly adopts the following emergency rule.

Effective midnight May 14, 1992 the commercial fishery for red snapper in Louisiana waters will close and remained closed until 12:01 a.m. January 1, 1993.

The secretary has been notified by the Gulf of Mexico Fishery Management Council and the National Marine Fisheries Service that the gulfwide commercial red snapper quota has been reached, the time limit for the emergency extension of the season will have passed, and the season closure is necessary to prevent overfishing of this species.

Joe L. Herring  
Secretary

#### DECLARATION OF EMERGENCY

##### Department of Wildlife and Fisheries Office of Fisheries

In accordance with the emergency provisions of R.S. 49:953(B), the Administrative Procedure Act, R.S. 49:967 which allows the Department of Wildlife and Fisheries and the Wildlife and Fisheries Commission to use emergency procedures to set finfish seasons, and R.S. 56:317 which provides that the secretary of the department may declare a closed season when it is in the best interest of the state; the secretary of the Department of Wildlife and Fisheries hereby finds that an imminent peril to the public welfare exists and accordingly adopts the following emergency rule.

Effective 12:01 a.m. May 25, 1992 the recreational fishery for king mackerel in Louisiana waters will close and remained closed until 12:01 a.m. July 1, 1992.

The secretary was notified by the Gulf of Mexico Fishery Management Council and the National Marine Fisheries Service on January 15, 1992 that the gulfwide recreational king mackerel quota had been reached and the season closure is necessary to prevent overfishing of this species.

Joe L. Herring  
Secretary

#### DECLARATION OF EMERGENCY

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

##### Mullet Harvest

In accordance with the emergency provisions of R.S. 49:953(B), the Administrative Procedure Act, R.S. 56:6(25)(a) which delegates the authority to the commission to set daily take and possession limits, based upon biological and technical data, and R.S. 56:333 which authorizes the Wildlife and Fisheries Commission to establish rules for the harvest of mullet; the Wildlife and Fisheries Commission hereby finds that an imminent peril to the public welfare exists and accordingly adopts the following emergency rule:

Effective June 4, 1992, the limit for the commercial taking of mullet between June 4 and July 18 is hereby set as 1500 pounds per day.

The commission finds that the present limit of 200 pounds for that season constitutes an immediate threat to markets established for mullet as a food fish during the June 4th to July 18th period. The commission further finds that no biological evidence has been presented to support the 200 pound limit. The loss of the ability to harvest in these quantities constitutes an imminent peril to the public welfare because of the irrevocable loss of income and commerce to the state.

James H. Jenkins, Jr.  
Chairman

# Rules

## RULE

### Department of Agriculture and Forestry Office of Forestry

The Department of Agriculture and Forestry adopts a rule adding LAC Title 7, Part XXXIX, Chapter 209. These rules will establish regulations dealing with reforestation of state lands.

This rule complies with Act 176 of the 1990 Regular Session, which amended R.S. 3:4271.

#### Title 7 AGRICULTURE AND FORESTRY Part XXXIX. Forestry

#### Chapter 209. Reforestation of Public Lands

##### §20901. Scope; Agencies Involved

A. Any state agency, department, board or commission, desiring to cut down or remove any tree or trees 10" Diameter-Breast-Height or larger must first submit a request for approval to the Louisiana Department of Agriculture and Forestry, Office of Forestry, Box 1628, Baton Rouge, LA 70821-1628, addressed to the attention of the state forester.

B. The request for approval must include information about what trees are to be cut down, their location, size and species. A site plan or diagram such that trees can be located by an inspector is required and also the intent or reason for the removal of the tree or trees.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:4271.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Forestry, LR 18:

##### §20903. Response to Agency Reports

The Louisiana Department of Agriculture and Forestry has 30 days in which to respond in writing to the written request. If no response is heard within 30 days, approval is automatically granted.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:4271.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Forestry, LR 18:

##### §20905. Site Inspections

The Louisiana Department of Agriculture and Forestry can inspect the site and make written recommendations to include alternatives to removing the trees, species, location and numbers of replacement trees and recommendations concerning planting and after care of planted trees. These recommendations will be adhered to unless determined to be physically impossible.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:4271.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Forestry, LR 18:

##### §20907. Appeals

An appeal process is available, if the state agency, department, board or commission for some reason cannot comply with the recommendations of the Louisiana Department of Agriculture and Forestry, then a representative can appeal to the state forester or commissioner of the Department of Agriculture and Forestry for reconsideration. This must be done within 30 days of the written recommendations. The state forester or commissioner of the Louisiana Department of Agriculture and Forestry shall have the power

to waive any or all planting requirements.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:4271.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Forestry, LR 18:

##### §20909. Tree Planting; Survival Inspections

Required tree planting shall be completed during the next planting season after the removal of the trees. The Louisiana Department of Agriculture and Forestry can check tree planting survival up to three years after planting and require replacement of any losses.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:4271.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Forestry, LR 18:

##### §20911. Size Requirements

On developed sites around buildings and along highway rights-of-way, a minimum tree size for planting is one inch caliper and five feet tall. The Louisiana Department of Agriculture and Forestry can require larger planting stock when deemed necessary for adequate survival. Seedlings may be allowed in certain areas where survival is not considered a problem.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:4271.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Forestry, LR 18:

##### §20913. Landscape Architects

The Louisiana Department of Agriculture and Forestry may require the use of a landscape architect in certain projects where their services are deemed necessary to ensure adequate attention to sensitive design considerations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:4271.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Forestry, LR 18:

##### §20915. Timber Harvesting

Any agency or department owning or controlling commercial forest land and desirous to harvest timber from this land is required by Act 211, 1987 Regular Legislative Session, to contact the Office of Forestry for assistance in developing a forest management plan for the acreage. Reforestation measures will be required as appropriate and this forest management plan will satisfy the requirements of Act 176.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:4271.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Forestry, LR 18:

##### §20917. Developing Wooded Property

Any agency planning to develop a site that contains existing trees must include the intent of Act 176 in the planning process of the project before any clearing of existing trees takes place. Assistance can be obtained from the Office of Forestry personnel to: locate, identify, evaluate and inventory existing trees; to provide technical assistance to save as many existing trees as is appropriate as well as to assist in the selection and placement of replacement trees. Emphasis shall be put on selection of appropriate species, size and location of trees.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:4271.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Forestry, LR 18:

Paul D. Frey  
State Forester

**RULE**

**Department of Civil Service  
Commission on Ethics for Public Employees**

The Department of Civil Service, Commission on Ethics for Public Employees, in accordance with R.S. 49:950 et seq., hereby gives notice to adopt a disclosure form to be filed by members or chief executive officers of local govern-

mental depositing authorities who also serve as officers, directors or employees of banks into which agency funds are deposited. This form provides a vehicle for the reporting of information concerning such conflicts of interest to the Commission on Ethics for Public Employees.

The commission is required by R.S. 39:1233.1, in accordance with the Administrative Procedure Act, to develop this disclosure form.

R.S. 39:1233.1 DISCLOSURE STATEMENT	
<p>The Louisiana Code of Governmental Ethics generally prohibits any member or chief executive officer of a local depositing authority from serving as an officer, director or employee of a bank in which agency funds are deposited. R.S. 39:1233.1 creates a narrow exception allowing a local governing authority member or chief executive officer to serve in such a capacity, despite the agency's deposit of funds in the bank, if he (1) recuses himself from voting in favor of any such bank and does not otherwise participate in the depositing authority's consideration of any matter affecting actual or potential business with the bank, (2) discloses the reason for the recusal and files these reasons, in writing, in the minutes or record of the agency, and (3) files this disclosure form with the Board of Ethics for Elected Officials or the Commission on Ethics for Public Employees within fifteen (15) days of any such recusal. This exception may be used only by members of "local depositing authorities." Local depositing authorities are defined by law to include all parishes, municipalities, boards, commissions, sheriffs and tax collectors, judges, clerks of court, and any other public bodies or officers of any parish, municipality or township, but do not include the state, state commissions, state boards and other state agencies. Unless a written advisory opinion has been obtained from the Commission on Ethics for Public Employees, members and chief executive officers of special agencies created by, representing OR comprised of more than one political subdivision are NOT included in this exception.</p>	
<p>NOTE: This exception is narrow-completion of this form will not cure any violation of the Ethics Code except those situations specifically addressed in R.S. 39:1233.1.</p>	
<p>1. Name and address of official</p>	<p>2. Office held (please include the office title and the political subdivision)</p>
<p>3. Name and address of bank</p>	<p>4. Position(s) held at bank (If officer, state office held. If employee, give job title.)</p>
<p>5. Position with bank is <input type="checkbox"/> compensated <input type="checkbox"/> noncompensated (Check one)</p>	
<p>6. Description of transaction from which you recused yourself from participating (for example, consideration of method of selecting bank(s) to be used, selection of a bank or banks, decision affecting deposits, decision to discontinue use of a bank, etc.). Include the date of each instance on which you recused yourself from voting or otherwise participating in any such transaction.</p>	
<p>7.</p> <p style="text-align: center;">_____</p> <p style="text-align: center;">Signature of official <span style="float: right;">Date</span></p>	
<p>Mail or hand deliver to: Ethics Administration Program, 7434 Perkins Rd., Suite B, Baton Rouge, LA 70808-4379. If you have any questions please call (504) 765-2308.</p>	

Peter G. Wright  
Deputy General Counsel

**RULE**

**Department of Economic Development  
Board of Architectural Examiners**

Under the authority of R.S. 37:144 and in accordance with the provisions of R.S. 49:951 et seq., the Board of Architectural Examiners has amended LAC 46:I.501 pertaining to applying for the Architectural Registration Examination. The amended rule fixes the dates for receipt of the necessary information from a candidate seeking to take the examination.

**Title 46**

**PROFESSIONAL AND OCCUPATIONAL STANDARDS**

**Part I. Architects**

**Chapter 5. Applications for Examination**

**§501. Making Application for Architectural Registration Examination**

A. A person desiring to take the Architectural Registration Examination ("ARE") should contact the National Council of Architectural Registration Boards ("NCARB") and request that NCARB file with the board a complete and approved Intern Development Program record for final review and approval by the board. The applicant shall also furnish the board a photograph and pay directly to the board the fee for taking the examination.

B. The Intern Development Program record, photograph, and the fee for taking the examination must be received by the board on or before April 1 for the June examination and on or before October 1 for the December examination. If the record, photograph, and fee are not received on or before said dates, the applicant will not be allowed to take the examination.

C. The applicant has full, complete, and sole responsibility for timely requesting from NCARB the filing of the record with the board, for furnishing the NCARB all necessary information, and for paying to NCARB all required fees. The applicant should be aware that NCARB requires a certain period of time to complete and file the record.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:145-146.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Board of Architectural Examiners, December 1965, amended May 1973, LR 4:333 (September 1978), LR 10:738 (October 1984), LR 12:760 (November 1986), amended by Department of Economic Development, Board of Architectural Examiners, LR 15:1 (January 1989), LR 18: (June 1992).

Mary "Teeny" Simmons  
Executive Director

**RULE**

**Department of Economic Development  
Board of Architectural Examiners**

Under the authority of R.S. 37:144 and in accordance with the provisions of R.S. 49:951 et seq., the Board of Architectural Examiners has adopted LAC 46:I.511 pertaining to modifying the examination administration to accommodate physical handicaps.

**Title 46**

**PROFESSIONAL AND OCCUPATIONAL STANDARDS**

**Part I. Architects**

**Chapter 5. Applications for Examination**

**§511. Modifications to Examination Administration to Accommodate Physical Handicaps**

Request for modifications to the examination administration to accommodate physical handicaps must be made in writing and received by the board on or before the dates set forth in §501(B). Such a request must be accompanied by a physician's report and/or a report by a diagnostic specialist, along with supporting data, confirming to the board's satisfaction the nature and extent of the handicap. After receipt of the request from the applicant, the board may require that the applicant supply further information and/or that the applicant appear personally before the board. It shall be the responsibility of the applicant to timely supply all further information as the board may require. The board shall determine what, if any, modifications will be made.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:145-146.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Board of Architectural Examiners, LR 18: (June 1992).

Mary "Teeny" Simmons  
Executive Director

**RULE**

**Department of Economic Development  
Real Estate Appraisal Subcommittee**

**(Editor's Note:** The following rule was submitted for publication but inadvertently omitted from inclusion in the February, 1992, *Louisiana Register*. Therefore, February 20, 1992 is the effective date for the adoption of the following amendments.)

In accordance with the notice of intent published in the October 20, 1991 issue of the *Louisiana Register*, the Louisiana Real Estate Appraisal Subcommittee announces the adoption of the following amendments, effective February 20, 1991.

**Title 46**

**PROFESSIONAL AND OCCUPATIONAL STANDARDS**

**Part LXVII. Real Estate**

**Subpart 2. Appraisers**

**Chapter 103. Certification**

**§10307. Basic Education Requirement for Certification**

A. Approved Courses. The subcommittee shall provide a list prescribing and defining the subjects related to real property appraisal that will satisfy the precertification educational requirements of R.S. 37:3399 A. and B. The list shall include:

1. specific appraisal subjects to be mandatory requirements for residential and general certification and the minimum number of hours that must be completed in each subject;
2. appraisal subjects to be designated as "electives" and the maximum number of hours of elective study acceptable toward residential and general certification; and

3. a comprehensive listing of acceptable course offerings, including providers and their addresses and telephone numbers.

B. Applicability. The subcommittee will consider, for approval, appraisal courses offered by the following:

1. appraisal organizations;
2. colleges and universities;
3. proprietary real estate schools approved by the LREC;

LREC;

4. federal or state entities; and

5. proprietary schools registered with the Louisiana Proprietary School Commission, a division of the Louisiana State Department of Education.

C. Application. Education providers must apply directly to the subcommittee for course approval. Application forms will be provided by the subcommittee. Information to be submitted for each course offering shall include: course content, program structuring, course completion standards, instructor qualifications, minimum number of classroom hours, textbook and course materials, and any additional information as requested by the subcommittee.

D. Length of Approval. Upon approval by the subcommittee, courses will be listed on the approved course list for a period of one year. At its discretion, the subcommittee may elect to automatically extend approval beyond the initial one-year period or request updated course information prior to extending approval for another one-year period.

E. Additional Course Approval. Any applicant completing appraisal courses through providers not listed with the subcommittee must apply for and receive approval for such coursework prior to formal application for certification. The applicant must provide the agency with proof of course completion, number of classroom hours, examination requirement, detailed course content, and any additional information on the subject matter to permit the agency to render an informed decision on the request.

F. Course Monitoring. As a condition for approval, education providers listed on the approved course list must agree to periodic monitoring of courses by the subcommittee or its authorized representative(s).

G. Withdrawal of Approval. The subcommittee reserves the right to withdraw approval and remove, from the approved course list, a course and/or the education provider for the course upon finding that the course fails to meet minimum standards of approval endorsed by the Appraiser Qualifications Board of the Appraisal Foundation as established by the Federal Financial Institutions Examination Council or its successors. A withdrawn approval may not be reinstated for at least a two-year period.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3395.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Appraisal Subcommittee, LR 15:815 (October 1989), amended LR 16:1055 (December 1990), February 1992 and promulgated LR 18: (June 1992).

Jane H. Moody  
Executive Director

## RULE

### Department of Economic Development Real Estate Appraisal Subcommittee

Notice is hereby given that the Louisiana Real Estate Appraisal Subcommittee has adopted the following amendments to the rules and regulations which appeared as emergency rules in the December 20, 1991 issue of the *Louisiana Register*.

#### Title 46

### PROFESSIONAL AND OCCUPATIONAL STANDARDS Part LXVII. Real Estate Subpart 2. Appraisers

#### Chapter 103. Certification

##### §10313. Residential Certification Minimum Experience

\* \* \*

D. Time Allowed for Meeting Experience (Repealed in its entirety)

Renumber Subsections E through F

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3395.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Appraisal Subcommittee, LR 15:814 (October 1989), amended LR 16:493 (June 1990), amended LR 18: (June 1992).

##### §10315. General Certification Experience

\* \* \*

D. Time Deadline for Meeting Requirement (Repealed in its entirety)

Renumber Subsections E through F

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3395.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Appraisal Subcommittee, LR 15:814 (October 1989), amended LR 16:493 (June 1990), amended LR 18: (June 1992).

Anna-Kathryn Williams  
Executive Director

## RULE

### Department of Education Board of Elementary and Secondary Education

#### 8(g) Annual Program and Budget FY 92-93

Notice is hereby given that the Board of Elementary and Secondary Education, pursuant to notice of intent published March 20, 1992, and under the authority contained in the Louisiana Constitution (1974), Article VIII, Section 3, Act 800 of the 1979 Regular Session, adopted the following 8(g) Annual Program and Budget for FY 92-93:

I. Exemplary Competitive Programs Designed to Improve Student Academic Achievement or Vo-Tech Skills

A. Pre-K — Third Grade	\$1,500,000
B. Student Enhancement (Grades 4-12)	1,500,000
C. Vocational Education	2,000,000

II. Exemplary Block Grant Programs Designed



to Improve Student Academic Achievement or Vo-Tech Skills	
A. Elementary and Secondary Education	4,000,000
1. Early Childhood Education (Pre-K — Third Grade)	
2. Student Enhancement (Grades 4 - 12)	
3. Educational Technology	
B. Vocational Education	650,000
1. Extension	
III. Exemplary Statewide Programs Designed to Improve Student Academic Achievement or Vo-Tech Skills	
A. Administrative Leadership Academy (SDE)	300,000
B. Teacher Exemption Programs (SDE)	
1. Tuition Exemption	3,100,000
2. NTE Test Preparation Clinic	100,000
C. Louisiana Writing Project (SDE)	250,000
D. Talent Improvement Program for Gifted and Talented Students (NSU)	60,000
E. Vocational Education (SDE)	
1. Curriculum Upgrade	80,000
2. Occupational Competency Testing Program	20,000
3. VTIE Tuition Exemption Program	70,000
4. Statewide Quickstart	1,000,000
5. Accreditation/Certification	100,000
6. Vocational Skills Enhancement	1,320,131
7. Mini Grant Awards of Excellence (SDE)	400,000
8. Statewide Distance Learning Network (SDE)	2,500,000
H. Humanities Institutes (SDE)	250,000
I. Model Early Childhood Program (SDE)	3,000,000
J. Enhancement of Secondary Math and Physics (UNO)	150,000
K. LA Geography Education Alliance (SDE)	50,000
L. Summer High School Credit Program (LSU)	50,000
M. Classroom Strategies for Dyslexia (SDE)	570,000
N. Taft Institute (Southern)	65,000
O. Economic Education (SDE)	100,000
P. Academic/Vocational Enhancement of BESE Special Schools	150,000
IV. Research or Pilot Programs Designed to Improve Student Academic Achievement	
A. Louisiana Educational Assessment Program (SDE)	1,200,000
B. Parent Education Project (SDE)	300,000
C. Spalding Phonics Project (SDE)	80,000
D. Instructional Enhancement Through the Arts (SDE)	150,000
E. Accelerated Schools for At-Risk Students (UNO)	400,000
F. Identifying and Serving Under-Represented Gifted (SDE)	200,000
G. Pilot Technology Institutes (SDE)	200,000
H. BESE/Regents NSF Project: Math and Science (SDE)	1,000,000
I. Middle Schools Initiative (SDE)	68,000
J. System Accreditation (K - 12) (SDE)	75,000
K. Teacher Mentor Program (SDE)	100,000
V. Purchase of Superior Textbooks, Library Books, Supplemental and/or Reference	

Materials (SDE)	3,000,000
VI. Remediation Programs	
A. Extended Programs for Students Failing the High School Graduation Test (SDE)	700,000
VII. Teaching of Foreign Languages in Elementary and Secondary Schools	
A. Foreign Language Model Program (SDE)	175,000
VIII. Scholarships or Stipends to Prospective Teachers	
A. Education Majors Program (SDE)	1,900,000
B. Post-Baccalaureate Scholarship Program (SDE)	500,000
IX. Management and Oversight	
A. BESE Administration (.9%)	307,889
B. BESE Fiscal/Programmatic Evaluation (1.1%)	<u>373,399</u>
<b>TOTAL</b>	<b><u>\$34,064,419</u></b>

AUTHORITY NOTE: R.S. 17:3801  
HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 18: (June 1992).

Carole Wallin  
Executive Director

**RULE**

**Department of Education  
Board of Elementary and Secondary Education**

**American Sign Language, Bulletin 741**

Notice is hereby given that the Board of Elementary and Secondary Education, pursuant to notice of intent published March 20, 1992 and under the authority contained in the Louisiana Constitution (1974), Article VIII, Section 3, Act 800 of the 1979 Regular Session, adopted the following addition of Standard 1.087.11 to Bulletin 741 as stated below:

1.087.11 School systems shall offer an elective course in American Sign Language if at least 15 students in a school request the course and if a qualified teacher is available. A qualified teacher is a secondary certified (regular or special education) teacher who has minimal proficiency in ASL.

Refer to R.S. 17:284.

AUTHORITY NOTE: R.S. 17:7

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 18: (June 1992).

Carole Wallin  
Executive Director

**RULE**

**Department of Education  
Board of Elementary and Secondary Education**

**Pilot Program in Special Education  
(LAC 28:I.313)**

Notice is hereby given that the Board of Elementary and Secondary Education, pursuant to notice of intent published March 20, 1992 and under the authority contained in the Louisiana Constitution (1974), Article VIII, Section 3, Act 800 of the 1979 Regular Session, adopted the following revision to the Louisiana Administrative Code, Title 28, Chapter 3:

**Title 28  
EDUCATION**

**Part I. Board of Elementary and Secondary Education  
Chapter 3. Rules of Procedure**

**§313. Waivers of Minimum Standards: Procedures**

\* \* \*

**E. Pilot Programs in Special Education**

1. The department may grant annual approval to school systems to conduct pilot programs upon receipt of a request signed by the superintendent which details how the pilot program is to be implemented and the reason for its implementation.

2. An annual report must be submitted to the department upon completion of the pilot program.

3. The department will submit to the board, a semi-annual report on approvals granted.

4. A school system may appeal department disapproval of a pilot program to the board.

**AUTHORITY NOTE:** R.S. 17:1941 et seq.

**HISTORICAL NOTE:** Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 18: (June 1992).

Carole Wallin  
Executive Director

**RULE**

**Department of Education  
Board of Elementary and Secondary Education**

**Technical Institute/Regional Management Center  
Calendars (LAC 28:I.1525)**

Notice is hereby given that the Board of Elementary and Secondary Education, pursuant to notice of intent published March 20, 1992 and under the authority contained in the Louisiana Constitution (1974), Article VIII, Section 3, Act 800 of the 1979 Regular Session, adopted the following revision to Chapter 15 of the Louisiana Administrative Code, Title 28, Volume 18:

Effective date of this rule is July 1, 1992.

**Title 28  
EDUCATION**

**Part I. Board of Elementary and Secondary Education  
Chapter 15. Vocational and Vocational-Technical Education**

**§1525. Institute/Regional Management Center Calendars**

A. All postsecondary technical institutes will be open a minimum of 238 days for a five-day work week and 200 days for a four-day work week per fiscal year, inclusive of administrative days, vacation days and the annual LVA/SDE inservice conference/workshop.

B. Regional Management Centers will be open a minimum of 238 days for a five-day work week, inclusive of vacation days.

C. The Office of Vocational Education will issue to each school, a five-day/four-day calendar of work each year for their selection which must be submitted to the Department of Education, prior to June 1 of each fiscal year, for final approval.

**AUTHORITY NOTE:** R.S.17:1995

**HISTORICAL NOTE:** Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 18: (June 1992).

Carole Wallin  
Executive Director

**RULE**

**Department of Education  
Bureau of Continuing Education**

**Educational Employees  
Professional Improvement Program (PIP)**

In accordance with the provisions of the Administrative Procedure Act, (R. S. 49:950 et seq.), the State Committee for the Louisiana Educational Employees Professional Improvement Program (PIP) during its final meeting on September 21, 1990, adopted Bulletin 1619, compiled 1990-91 (R.S. 17:3601- R.S. 17:3667), in context, prior to its dissolution on September 30, 1990.

Bulletin 1619, compiled 1990-91, is a summary of all the rules and regulations promulgated for the implementation of the Professional Improvement Program from 1980, the year for which related legislation was enacted, forward. No new regulations, with the exception of information regarding statutes passed after 1987, is included in these guidelines. They are simply a final, complete compilation of all the rules and regulations included in Bulletin 1619, revised 1986, the addendums published thereafter, etc. and an update regarding pertinent legislation. They were compiled in response to a strong suggestion made by the legislative auditor that they be provided as continued direction for the implementation of the program.

Requests for copies of these documents should be addressed to Office of the State Register, 1051 North Third Street, Baton Rouge, LA 70804.

Betty Hill  
Former Chairman of the  
State Committee

**RULE**

**Student Financial Assistance Commission  
Office of Student Financial Assistance**

Scholarship and Grant Policy  
to Stop Payment on Award Checks

The Louisiana Student Financial Assistance Commission, Office of Student Financial Assistance, has amended its Scholarship/Grant Policy Procedure Manual by adding a policy to stop payment on unclaimed or unnegotiated scholarship or grant awards.

Chapter VII shall be amended by adding Paragraph F, as follows:

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F. Stop Payment of Uncleared Checks

On September 1 of each year, OSFA will stop payment on all checks that have not been negotiated and which were issued as scholarship or grant awards for the prior ending academic year.

Jack L. Guinn  
Executive Director

**RULE**

**Student Financial Assistance Commission  
Office of Student Financial Assistance**

Release of Midyear Scholarship Awards

The Louisiana Student Financial Assistance Commission proposes to amend the Scholarship/Grant Policy and Procedure Manual by adding rules which define the criteria under which institutions are authorized to release midyear scholarship awards to students. Chapter VII of the Scholarship/Grant Policy and Procedure Manual has been amended by adding Paragraph E to read:

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E. Release of Midyear Scholarship Awards

Midyear scholarship checks and tuition reimbursement should be released to students by the institution if the student is listed on an OSFA eligibility roster or master listing and is enrolled full time for the spring term (winter and spring in the case of Louisiana Tech). Institutions are not responsible for verifying grades or hours earned at the conclusion of the fall term (or fall and winter terms in the case of Louisiana Tech). However, institutions continue to be responsible for verifying that Paul Douglas and Rockefeller Scholarship recipients are enrolled in the required field of study prior to the release of spring award checks.

Jack L. Guinn  
Executive Director

**RULE**

**Student Financial Assistance Commission  
Office of Student Financial Assistance**

Tuition Assistance Plan Application Deadline

The Louisiana Student Financial Assistance Commission, Office of Student Financial Assistance, announces its intention to permanently extend the deadline for filing applications for the Tuition Assistance Plan (TAP). Chapter VI.C.1a shall be amended to read as follows:

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C 1) a. Submit the completed application for state and federal aid by September 1 (or the next business day if the first falls on a weekend).

Jack L. Guinn  
Executive Director

**RULE**

**Student Financial Assistance Commission  
Office of Student Financial Assistance**

Tuition Assistance Plan Billing Procedures

The Louisiana Student Financial Assistance Commission, Office of Student Financial Assistance, has amended the Scholarship/Grant Policy and Procedure Manual by adding Subparagraphs E.3 and G.3.f to Chapter VI, to read as follows:

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E 3) Follow LASFAC billing procedures, as follows:

a. Institutions may bill LASFAC only for students certified eligible by OSFA.

b. Institutions will bill LASFAC based on their certification of new students' first time, full-time enrollment and renewal students' full-time enrollment as of the fourteenth class day (ninth class day for Louisiana Tech). Institutions are not to bill LASFAC for students who are enrolled less than full time on the fourteenth class day. In such cases, the students are responsible for reimbursing the institutions for any monies owed. Refunds for less than full-time enrollment after the fourteenth class day are to be retained by the institution.

c. Annually, institutions are required to provide OSFA a current fee schedule. Fee schedule is defined as a listing of the actual tuition and mandatory fees for attendance at that school as defined by the institution. An itemized description of the composition of the mandatory fees listed on the fee schedule must also be supplied.

d. Upon the school's certification of the TAP recipient's full-time enrollment, OSFA will reimburse the institution up to the maximum amount listed on the approved fee schedule.

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G 3) f. Reimburse the tuition waived by colleges and universities.

i. Review and approve the school's current schedule of fees.

ii. Mail TAP billing packet to schools.

iii. Verify and reconcile the school's TAP Billing Roster and School Invoice.

iv. Correct discrepancies, if applicable.

v. Mail payment acknowledgement and check to school.

Jack L. Guinn  
Executive Director

## RULE

### Department of Environmental Quality Office of Air Quality and Radiation Protection

#### Naturally Occurring Radioactive Material (NORM) (NEO4) (LAC 33:XV.Chapter 14)

Under the authority of the Louisiana Environmental Quality Act, R.S. 30:2001, et seq., particularly R.S. 30:2104.B.1, and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950, et seq., the secretary has amended the Louisiana Radiation Protection Regulations, LAC 33:XV.Chapter 14, (Log #NEO4).

This rule has repealed and replaced the regulations governing the licensing of naturally occurring radioactive material (NORM) with respect to the exposure rate level at which oil production equipment should be subject to general licensure. It also provides for the exclusion of soil concentration limits for radium isotopes, above which, land would be subject to general licensure.

### Title 33 ENVIRONMENTAL QUALITY Part XV. Radiation Protection

#### Chapter 14. Regulation and Licensing of Naturally Occurring Radioactive Materials (NORM)

##### §1401. Purpose

The regulations in this Chapter establish radiation health and safety requirements for the possession, use, transfer, storage, and disposal of naturally occurring radioactive materials that do not include source, special nuclear, or by-product materials regulated pursuant to the licensing requirements in LAC 33:XV.Chapter 3.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 30:2001 et seq.

**HISTORICAL NOTE:** Repealed and repromulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 18: (June 1992).

##### §1402. Scope

A. These regulations apply to any person who engages in the waste generation, extraction, mining, beneficiating, processing, use, transfer, transportation, or disposal of NORM in such a manner as to technologically alter the natural sources of radiation or their potential exposure pathways to humans.

B. These regulations also apply to sludges and scale deposits in tubulars and equipment and to soil or water contaminated by the cleaning of scale deposits. These regulations include the contamination of soil from produced waters.

C. The regulations in this Chapter address the introduction of NORM into materials or products in which neither the NORM nor the radiation emitted from the NORM is considered by the administrative authority to be beneficial to the materials or products. The manufacture and distribution of materials or products containing NORM in which the NORM and/or its associated radiation(s) is considered to be a beneficial attribute are licensed under the

provisions of LAC 33:XV.Chapter 3.

D. This Chapter also addresses waste generation, waste management, transfer, storage, and disposal with regard to both inactive and active sites and facilities involved in storage and/or cleaning of tubulars and contaminated equipment.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 30:2001 et seq.

**HISTORICAL NOTE:** Repealed and repromulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 18: (June 1992).

##### §1403. Definitions

In addition to the definitions specified in Chapter 1, the following definitions apply:

**Barrier**—a physical separation by natural or constructed means that prevents or restricts the penetration to adjacent areas of the harmful effects of NORM wastes.

**Beneficial Attribute or Beneficial to the Product**—the radioactivity of the product is necessary to the use of the product.

**Beneficiating**—the processing of materials or products for the purpose of altering the chemical or physical properties to improve the quality, purity, or assay grade of a desired product or material.

**Commercial Storage Facility**—a NORM waste storage site which receives and stores NORM for a fee or other consideration.

**Container**—any portable device in which a material is stored, transported, treated, disposed of, or otherwise handled.

**Decontamination**—the act of removing NORM to reduce levels of radiation.

**Decontamination Facility**—a facility that provides services to reduce levels of contamination of radioactive material. Decontamination facilities are limited to a temporary storage of NORM waste not to exceed 30 days from the date of initial containerization.

**Equipment**—tubulars, wellheads, separators, condensers, or any other related apparatus associated with the potential or actual enhancement of NORM.

**Facility**—all contiguous land and structures, including other appurtenances, and improvements on land or water that contain NORM exceeding the limits specified in LAC 33:XV.1404.A.

**Generator**—any person, by site, whose act or process produces NORM waste, or whose act first causes or allows a NORM waste to become subject to regulation.

**Location**—NORM contaminated site(s) such as a commingling facility, a wellhead, a tank battery, any other type of production facility for oil or gas, a warehouse, or other type of NORM storage area for equipment or drums, pipeline, land, or pipeyard. A location may contain several sites.

**Naturally Occurring Radioactive Materials (NORM)**—any nuclide that is radioactive in its natural physical state (i.e., not man-made), but not including source or special nuclear material.

**NORM Waste**—the product of any operation where the purpose of which would be the removal of NORM from soil or equipment.

**Pile**—any non-containerized accumulation of solid, nonflowing NORM waste.

**Product**—anything produced, made, manufactured, refined, or beneficiated.

**Site**—any part of a location, land area (i.e., well site, pipeyard, scrapyards, production pit, treater/disposal facility, landfarm, landfill), equipment (each wellhead, each tank, each vessel, each separator, or any other apparatus associated with a process that has technologically enhanced naturally occurring radioactive material) or other appurtenances in a facility that contain enhanced NORM, both active and inactive.

**Storage**—the containment of NORM waste in such a manner as not to constitute disposal of NORM waste.

**Tank**—a stationary device designed to contain an accumulation of waste containing NORM that is constructed primarily of nonearthen materials (e.g., wood, concrete, steel, plastic) that provide structural support and integrity.

**Technologically Enhanced Natural Radioactive Material [hereinafter referred to as TENR]**— means natural sources of radiation which would not normally appear without some technological activity not expressly designed to produce radiation.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 30:2001 et seq.

**HISTORICAL NOTE:** Repealed and repromulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 18: (June 1992).

#### §1404. Exemptions

A. Persons who receive, possess, use, process, transfer, transport, store, distribute, and/or dispose of:

1. NORM are exempt from the requirements of these regulations if the materials contain, or are contaminated at, concentrations less than five picocuries per gram of radium-226 or radium-228, above background; or, concentrations less than 30 picocuries per gram of technologically enhanced radium-226 or radium-228, averaged over any 100 square meters, if applicable, provided the radon emanation rate does not exceed 20 picocuries per square meter per second, or 150 picocuries per gram of any other NORM radionuclide, provided that these concentrations are not exceeded at any time; or

2. equipment, which contains NORM, are exempt from the requirements of these regulations if the maximum radiation exposure level does not exceed 25 microrentgens per hour above the background radiation level at any accessible point.

B. Persons who receive source material as authorized under the general license in LAC 33:XV.321.A and products or materials containing NORM distributed in accordance with a specific license issued by the division or an equivalent license issued by another licensing state are exempt from these regulations.

C. Persons who receive, possess, store, use, process, transfer, sell, manufacture, distribute, or dispose of raw materials, intermediates, process streams, products, by-products (including bauxite refinery and phosphogypsum recycle/reuse raw materials and products), and wastes related to the production of bauxite refinery and phosphate fertilizer materials, products, and by-products are exempt from these regulations.

D. The manufacturing, distribution, use, transportation, and disposal of the following products/materials are exempt from the requirements of these regulations:

1. potassium and potassium compounds that have not been isotopically enriched in the radionuclide K-40; and

2. materials used for building construction, industrial processes, metal casings, and abrasive cleaning if the NORM content of such material has not been technologically enhanced; and

3. by-products from fossil fuel combustion (bottom ash, fly ash, and flue-gas emission control by-products).

E. The wholesale and retail distribution (including custom blending), possession, use, and transportation of the following products/materials are exempt from the requirements of these regulations:

1. phosphate and potash fertilizer;

2. phosphogypsum for agricultural uses;

3. materials used for building construction if such materials contain NORM that has not been technologically enhanced;

4. natural gas and natural gas products; and

5. crude oil and crude oil products.

F. Produced waters from crude oil and natural gas production are exempt from the requirements of these regulations. Regulations concerning produced waters are referenced in LAC 33:IX Chapter 7.

G. Tanks, vessels, containers, storage facilities, and distribution lines in refineries, petrochemical and gas plants contaminated with NORM are not exempt from the requirements of these regulations.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 30:2001 et seq.

**HISTORICAL NOTE:** Repealed and repromulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 18: (June 1992).

#### §1405. [Reserved]

#### §1406. Radiation Survey Instruments

A. Instrumentation utilized to determine exposure rates pursuant to this Chapter shall be capable of measuring 1 microrentgen per hour through a minimum of 500 microrentgens per hour.

B. Each radiation survey instrument shall be calibrated:

1. at intervals not to exceed six months and after each instrument servicing;

2. at energies and radiation levels appropriate for use; and

3. so that accuracy within plus or minus 20 percent of the true radiation level can be demonstrated on each scale.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 30:2001 et seq.

**HISTORICAL NOTE:** Repealed and repromulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 18: (June 1992).

#### §1407. through §1409. [Reserved]

#### §1410. General License

A. A general license is hereby issued to mine, extract, receive, possess, own, use, process, store, and transfer NORM not exempt in LAC 33:XV.1404 without regard to quantity. This general license does not authorize the manufacturing or distribution of products, or the landfarming of NORM, or the transfer of NORM for purposes of treatment/disposal, containing levels or concentrations greater than those specified in LAC 33:XV.Chapter 4 from one general licensee to another. This general license does not

authorize the excavation of land unless procedures pursuant to LAC 33:XV.1410.C have been approved nor does it authorize the unrestricted transfer of land containing concentrations of NORM greater than five picocuries per gram (185 Bq/kg) of radium-226 or radium-228, above background, if the radon emanation rate exceeds 20 picocuries per square meter per second, or concentrations of 0.05 percent by weight of uranium or thorium, or 150 picocuries per gram (5.55 kBq/kg) of any other NORM radionuclide.

B. Facilities, equipment, and sites contaminated with NORM in excess of the levels set forth in LAC 33:XV.1404.A shall not be released for unrestricted use. The decontamination of such facilities, sites, and/or equipment shall only be performed by persons specifically licensed by the division or another licensing state to conduct such work.

C. Each general licensee performing on-site maintenance on contaminated facilities, sites, and/or equipment shall establish and submit to the division, for approval, written procedures to ensure worker protection and for the survey (or screening) of equipment and components to ensure that the levels in LAC 33:XV.1404.A are not exceeded.

D. Land contaminated with radium 226 or 228, averaged over any 100 square meters shall not be released for unrestricted use if the following limits are exceeded unless other limits or measurement procedures are approved by the department:

1. for radon emanation rates greater than 20 picocuries per square meter per second, 5 pCi/gm above background averaged over the first 15 cm of soil below the surface, and 15 pCi/gm above background averaged over each subsequent 15 cm thick layer of soil; or

2. for radon emanation rates less than or equal to 20 picocuries per square meter per second, 30 pCi/gm averaged over a maximum depth of 15 cm of soil below the surface.

E. Persons subject to the general license established by LAC 33:XV.1410.A shall notify the division by filing the Notification of NORM Form (Form RPD-36). The information shall be submitted to the Radiation Protection Division; Post Office Box 82135; Baton Rouge, LA 70884-2135. A confirmatory survey for each of the sites shall also be submitted to the division within 90 days of the effective date of these regulations.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 30:2001 et seq.

**HISTORICAL NOTE:** Repealed and repromulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 18: (June 1992).

#### **§1411. Protection of Workers During Operations**

Each person subject to the general license requirements in LAC 33:XV.1410 or a specific license shall conduct operations in compliance with each of the standards for radiation protection set forth in LAC 33:XV.Chapters 4 and 10.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 30:2001 et seq.

**HISTORICAL NOTE:** Repealed and repromulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 18: (June 1992).

#### **§1412. Disposal and Transfer of Waste for Disposal**

A. Each person subject to the general license

requirements in LAC 33:XV.1410, or to a specific license, shall manage and dispose of wastes containing NORM:

1. in accordance with the applicable requirements of LAC 33:XV.Chapter 4;

2. in accordance with the applicable requirements of the U.S. Environmental Protection Agency for disposal of such wastes;

3. by transfer of the wastes for disposal to a land disposal facility licensed by the U.S. Nuclear Regulatory Commission, an agreement state, or a licensing state; or

4. in accordance with alternate methods authorized by the division in writing upon application or upon the division's initiative. The application for approval for alternative methods of disposal shall be submitted to the division for approval.

B. Records of disposal, including manifests, shall be maintained pursuant to the provisions of LAC 33:XV.Chapter 4.

C. Intrastate transfers of waste containing NORM for disposal shall be made only to persons specifically authorized by the division to receive such waste. It is the responsibility of the transferor to ascertain that the transferee possesses this specific authorization prior to actual transfer.

D. Each person subject to the general license requirements in LAC 33:XV.1410 may continue to store NORM waste after the effective date of these regulations if the generator submits to the division a viable written plan for NORM waste management pursuant to LAC 33:XV.1412.A.4 and E. If the generator fails to submit a plan or if the plan submitted is not approved, all NORM waste must be transferred to a licensed storage facility or a licensed disposal facility within 90 days. The generator shall initiate implementation of the plan within 30 days of approval by the division.

E. The initial NORM waste management plan shall be submitted to the division in writing within 60 days after the effective date of the regulation or within 30 days following completion of the confirmatory survey. This plan shall include, but is not limited to, the following:

1. current methods of storage,
2. recordkeeping, including inventory and manifest,
3. the proposed method of disposal,
4. the estimated total activity to be disposed,
5. the estimated date of disposal completion, and
6. financial security, if applicable.

F. Surface equipment that has been removed from service and not employed for its designated function, excluding wellheads, shall be decontaminated to the limits specified in LAC 33:XV.1404, or disposed of in accordance with the written plan pursuant to LAC 33:XV.1412.D, within one year from the date the equipment was removed from service or the effective date of this regulation, whichever is later. The NORM waste shall be managed pursuant to and in accordance with the disposal plan required by LAC 33:XV.1412.D of these regulations or shall be transferred to a licensed storage facility or a licensed disposal facility within 60 days. This requirement does not apply to equipment that remains subsurface and is associated with production wells or injection wells classified as having future utility.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 30:2001 et seq.

**HISTORICAL NOTE:** Repealed and repromulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Radiation Protection Division, LR

18: (June 1992).

**§1413. Certification**

A. Upon completion of survey(s) of equipment and facilities that verify that NORM regulated by this Chapter is not present, an individual may submit documentation to the division indicating that the equipment and facilities are exempt from the requirements of LAC 33:XV.1410. The surveys shall be performed and documented by persons who have demonstrated to the satisfaction of the division that they possess the knowledge and training to perform such services, and are recognized by the division to do so. Individuals performing and documenting the surveys shall demonstrate competence with the subjects outlined in Appendix A of this Chapter. After a complete review and approval of the documentation by the division, the individual may not be subject to any penalty associated with the failure to submit notification required by LAC 33:XV.1410.E if NORM is subsequently discovered at the location.

B. Any person signing a document under LAC 33:XV.1410 and LAC 33:XV.1413.A shall make the following certification: "I hereby certify under penalty of law that I have personally examined and am familiar with the information submitted in this document and all attachments and that, based on my personal inquiry of those individuals immediately responsible for obtaining the information, I hereby represent in writing that the information contained herein is true, accurate, and complete to the best of my knowledge, information, and belief. I am aware that there are significant penalties for submitting false information, including the possibility of fines and imprisonment, or both." The signed document shall be dated and shall include the occupational title of the signatory.

C. If NORM is subsequently discovered by the division at a location at which documentation pursuant to LAC 33:XV.1410.E or LAC 33:XV.1413.A has not been submitted to the division, all NORM waste materials subject to this Chapter shall be transferred to a licensed storage facility or licensed disposal facility within 90 days.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 30:2001 et seq.

**HISTORICAL NOTE:** Repealed and repromulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 18: (June 1992).

**§1414. Containers (This Section Applies to any Licensee that Stores Containers of NORM)**

A. If a container holding NORM waste is not in good or safe condition (e.g., severe rusting, apparent structural defects), or if it begins to leak, the licensee must transfer the NORM from this container to a container that is in good or safe condition or manage and store the waste in some other way that complies with the requirements of this Chapter.

B. The licensee shall use a container made of or lined with materials that will not react with, or be incompatible with, the NORM waste to be stored, so that the ability of the container to contain the waste is not impaired or compromised.

C. A container holding NORM waste shall always be closed during storage, except when it is necessary to add or remove waste.

D. A container holding NORM waste shall not be opened, handled, or stored in a manner that may rupture the container or cause it to leak.

E. At least quarterly, the licensee shall inspect areas where containers are stored, looking for leaking containers and for deterioration of containers and the containment system. Records of these inspections shall be made.

F. All containers shall be stacked in such a fashion that each container identification label can be read from the access aisle or area. Labeling of containers shall be in compliance with LAC:XV.422.F.

G. Records of inspections pursuant to LAC 33:XV.1414.E shall be maintained by the licensee for inspection by the division for five years.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 30:2001 et seq.

**HISTORICAL NOTE:** Repealed and repromulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 18: (June 1992).

**§1415. Waste Piles**

Storage of new NORM waste by piles is prohibited. No new NORM waste piles can be initiated and no existing NORM waste piles added to after the effective date of these regulations.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 30:2001 et seq.

**HISTORICAL NOTE:** Repealed and repromulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 18: (June 1992).

**§1416. Inspections of Storage Tanks Containing NORM**

As part of an inspection, schedule the licensee shall develop a schedule and procedure for assessing the condition of each tank. The schedule and procedure must be adequate to detect cracks, leaks, corrosion, and erosion that may lead to cracks, leaks, or wall thinning to less than the required thickness. Procedures for emptying a tank to allow entry, procedures for personnel protection, and inspection of the interior must be established when necessary to detect corrosion or erosion of the tank sides and bottom. The frequency of these assessments must be based on the material of construction of the tank, type of corrosion or erosion protection used, rate of corrosion or erosion observed during previous inspections, and the characteristics of the waste being treated or stored.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 30:2001 et seq.

**HISTORICAL NOTE:** Repealed and repromulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 18: (June 1992).

**§1417. Closure Requirements**

A. An application for closure must be filed and approved by the division prior to license termination and prior to final closure of the NORM site or as otherwise directed by the division.

B. As part of the application, prior approval by the groundwater protection division must be attached addressing the certification of the ground water quality. All pits, ponds, and lagoons must comply with departmental regulations and/or policies dealing with ground water quality.

C. The application for closure must be filed in accordance with LAC 33:XV.1417.D, E, and F. Information contained in previous applications, statements, or reports filed with the division under the license may be incorporated



by reference if the references are clear and specific.

D. The closure application shall include specific details of the NORM site closure plan including each of the following:

1. the results of tests, experiments, or any other analyses relating to backfill of excavated areas, closure and sealing;

2. any proposed revision of plans for:

a. decontamination and/or dismantlement of surface facilities,

b. backfilling of excavated areas, and/or

c. stabilization of the NORM site for post-closure care; and

3. any new information regarding the environmental impact of closure activities and long-term performance of the NORM site.

E. Upon review and consideration of an application for closure submitted in accordance with LAC 33:XV.1417.A, the division shall issue in writing, an authorization for closure if it is determined by the division there is reasonable assurance that the long-term performance objectives of this Chapter will be met.

F. The licensee shall observe, monitor, and execute/administer necessary maintenance and repairs at the NORM site until the site closure is complete and the site is released for unrestricted use by the division. Responsibility for the NORM site shall be maintained by the licensee.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 30:2001 et seq.

**HISTORICAL NOTE:** Repealed and repromulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 18: (June 1992).

#### **§1418. Transporter Manifests**

A. Each shipment of NORM waste to a facility specifically licensed for storage or disposal and that contains Ra-226 or Ra-228 in concentrations greater than 30 pCi/gm or greater than 25 microrentgens per hour, excluding background, shall be accompanied by a shipment manifest.

B. The manifest form must be obtained from the division and must consist of at a minimum, the number of copies that will provide the generator, each transporter, and the operator of the designated facility with one copy each for their records with the remaining copies to be returned to the generator and the other appropriate parties.

#### **C. General Requirements**

1. A generator who transports, or offers for transportation, NORM waste for off-site treatment, storage, or disposal must prepare and sign sufficient copies of a manifest before transporting the waste off-site.

2. A generator must designate on the manifest one facility which is permitted to handle the waste described on the manifest.

3. If the transporter is unable to deliver the NORM to the designated facility, the generator must either designate another facility or instruct the transporter to return the waste.

4. Generators must provide a statement concerning the nature of the material and general guidelines for an emergency situation involving this waste to accompany the manifest on shipments and loads.

5. If the NORM is to be transported out-of-state, the generator will be responsible for receiving the completed, signed manifest from the out-of-state storage or disposal facility.

6. Generators must get written confirmation of acceptability of the NORM from the operator of the storage or disposal facility before shipping the NORM. The confirmation must be maintained as part of the facility manifest records.

7. Generators are required to report to the division any irregularities between the NORM actually received and the waste described on the manifest, or any other irregularities, within 15 days.

#### **D. Required Information**

1. The manifest must contain all of the following information prior to leaving the generator site:

a. a state manifest document which shall be obtained from this division if the destination point is in Louisiana;

b. the generator's name, mailing address, telephone number, and NORM general license number;

c. the name, Interstate Commerce Commission number (ICC #), and telephone number of each transporter;

d. the name, address, telephone number, and NORM specific license number of the designated facility, if applicable;

e. the description of the waste(s) {(e.g., scale, soil, sludge) or contaminated equipment (e.g., heater treater, tubulars)}.

f. the total quantity of all NORM by units of weight in tons, cubic yards, pounds, or gallons (liquid only), and the type and number of containers (metal drums, barrels, kegs, fiberboard or plastic drums, cargo tanks, tank trucks, dump trucks, metal boxes, cartons, cases, burlap bags, paper bags, plastic bags, wooden drums, tanks portable, tank cars, cylinders, wooden boxes, and fiber or plastic boxes) as loaded into or onto the transport vehicle. If the weight is unknown, the volume and estimated weight should be provided.

2. The certification that appears on the manifest must be read, signed, and dated by the generator as follows: "I hereby declare that the contents of this consignment are fully and accurately described above by proper shipping name and are classified, packed, marked, and labeled, and are in all respects in proper condition for transport by highway according to applicable international and national government regulations."

#### **E. Use of the Manifest**

1. The generator must:

a. sign and date the manifest certification by hand when the initial transporter accepts the shipment;

b. obtain the handwritten signature of the initial transporter and date of acceptance of the manifest; and

c. retain one copy.

2. The generator must give the transporter the remaining copies of the manifest.

3. The generator must receive the fully signed copy of the manifest from the designated storage or disposal facility within 45 days from the delivery to the initial transporter. In the event, the generator does not receive the signed manifest timely, it shall:

a. notify the division in writing within seven days;

b. conduct an investigation into the reasons why it did not receive the manifest;

c. report the results of the investigation to the division.

#### **F. Transporters**

1. A transporter may not accept NORM for transportation unless the NORM is accompanied by sufficient copies of a manifest, properly prepared and each copy signed

and dated by the generator and each previous transporter in accordance with these regulations.

2. Before transporting the NORM, the transporter must sign and date each copy of the manifest acknowledging acceptance of the NORM from the generator or previous transporter. The transporter must return a signed copy to the generator or previous transporter before leaving the property with the NORM.

3. A transporter who delivers NORM to another transporter or to the designated storage or disposal facility shall:

a. obtain the date and signature of the accepting transporter or designated storage or disposal facility;

b. retain one copy of the manifest signed and dated by the generator, all previous transporters, himself and the next transporter or designated facility;

c. give the remaining copies of the manifest to the accepting transporter or designated facility.

**G. Designated Facility**

The designated facility should fill out his portion, retain a copy for his files, submit the original to the division, and send all remaining copies to the generator no later than 15 days after delivery of the NORM waste.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 30:2001 et seq.

**HISTORICAL NOTE:** Repealed and repromulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 17: (June 1992).

**§1419. Financial Responsibility of Transporters**

A. Each transporter of NORM waste to a licensee for long-term storage or disposal shall acquire continuous insurance coverage or other financial responsibility for all of its transport vehicles regulated by these regulations at a minimum coverage of \$300,000 per vehicle public liability and \$200,000 per vehicle damage.

B. The financial responsibility required by this Section may be established by any one or a combination of the following:

1. evidence of liability insurance;

2. self-insurance with a level not more than 20 percent of equity; or

3. other evidence of financial responsibility deemed acceptable by the secretary of the Department of Public Safety and Corrections or its successor agency.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 30:2001 et seq.

**HISTORICAL NOTE:** Repealed and repromulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 18: (June 1992).

**§1420. Financial Security Requirements for NORM Treators or Stors**

A. Each licensee that physically and chemically treats or stores NORM waste, pursuant to the approval of a disposal plan as required by LAC 33:XV.1412.D and F, shall post with the division financial security to ensure the protection of the public health and safety and the environment in the event of abandonment, default, or other inability or unwillingness of the licensee to meet the requirements of the Act and these rules. Financial security shall:

1. name the division as beneficiary with a bond issued

by a fidelity or surety company authorized to do business in Louisiana, a personal bond secured by such collateral as the office deems satisfactory, a cash bond, a liability endorsement, or a letter of credit. The amount of the bond, liability endorsement, or letter of credit shall be equal to or greater than the amount of the security required. Any security must be available in Louisiana and subject to judicial process and execution in the event required for the purposes set forth in this Section, and be continuous for the term of the license;

2. be in an amount based upon a division-approved cost estimates plan for decontamination, decommissioning, restoration, and reclamation of buildings, equipment, and the site to levels that would allow unrestricted use;

3. be established concurrent with the application or plan required by LAC 33:XV.1412.D to assure that sufficient funds will be available to carry out the decontamination and decommissioning of the facility; and

4. be for the duration of the license and for a period coincident with the licensee's responsibility under the Act and these rules.

B. On the effective date of these rules, current licenses in effect may continue, provided that the required security arrangements are submitted to the division within 120 days.

C. No later than 90 days after the licensee notifies the division that decontamination and decommissioning have been completed, the division shall determine if these have been conducted in accordance with these rules. If the division finds that the requirements have been met, the secretary or his designee shall direct the return or release of the licensee's security in full plus any accumulated interest within 14 days. If the division finds that the requirements have not been met, the division will notify the licensee of the steps necessary for compliance.

D. This Section shall be applicable until such time that a NORM Trust Fund or other instrument to accomplish these purposes may be established by the legislature.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 30:2001 et seq.

**HISTORICAL NOTE:** Repealed and repromulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 18: (June 1992).

**CHAPTER 14  
Appendix A**

**SUBJECTS TO BE INCLUDED IN TRAINING COURSES FOR INDIVIDUALS PERFORMING NORM SURVEYS**

The following outline describes the subjects that individuals must demonstrate competence in prior to being approved as a NORM surveyor.

I. Fundamentals of Radiation Safety

A. Characteristics of radiation

B. Units of radiation dose and quantity of radioactivity

C. Levels of radiation from sources of radiation

D. Methods of minimizing radiation dose

1. working time

2. working distance

3. shielding

4. respiratory precautions

5. use of anti-contamination clothing

II. Radiation Detection of Instrumentation to Be Used

In accordance with the notice of intent published July 20, 1991 in the *Louisiana Register*, the Office of Telecommunications Management in accordance with R.S. 49:950 et seq., and R.S. 39:140-143 hereby amends LAC 4:IX as follows:

**Title 4  
ADMINISTRATION**

**Part IX. Telecommunications**

**Chapter 5. Approval of Non-State Entity Use of State Telecommunications Services**

\* \* \*

**§503. Approval Criteria**

A. When one of the following criteria is met and upon approval of the Office of Telecommunications Management, non-state entities may use state telecommunications services.

B. The non-state entities shall be either:

1. political subdivisions created by statute;
2. state credit unions;
3. Blind Services approved operators in state buildings;

or,

4. the working press with offices in the State Capitol.

C. A non-state entity may be required to supply documentation or evidence of its creation.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 39:140 - 143 and R.S. 39:1751 - 1755.

**HISTORICAL NOTE:** Promulgated by the Office of the Governor, Division of Administration, Office of Telecommunications Management, LR 6:722 (December 1980), repromulgated LR 10:80 (February 1984), LR 17:267 (March 1991), amended LR 18: (June 1992).

**Chapter 20. Delegation of Authority**

**§2001. Delegation of Authority**

The Office of Telecommunications Management may delegate in writing the authority for specific, limited telecommunications activities.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 39:140 - 143 and R.S. 39:1751 - 1755.

**HISTORICAL NOTE:** Promulgated by the Office of the Governor, Division of Administration, Office of Telecommunications Management, LR 18: (June 1992).

Joseph A. Lanier  
Director

**RULE**

**Office of the Governor  
Office of Elderly Affairs**

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Governor's Office of Elderly Affairs (GOEA) has amended the GOEA Policy Manual, effective July 1, 1992. The purposes of this rule change are: to incorporate the minimum funding requirements for priority service categories under the Older Americans Act; to specify the services which are directly related to an area agency on aging's administrative functions, and therefore may be provided directly by an area agency on aging; and to have the policy manual conform to the changes in the Small Purchases Law, Executive Order 88-31.

**Title 4  
ADMINISTRATION  
Part VII. Governor's Office**

**Chapter 11. Elderly Affairs**

- A. Use of radiation survey instruments
    1. operation
    2. calibration
    3. limitations
  - B. Survey techniques
  - C. Use of personnel-monitoring equipment
- III. The Requirements of Pertinent State Regulations
- Documentation of qualifications and training shall be submitted to the division for review and approval prior to an individual performing NORM surveys.

Demonstration of qualifications and training of individuals to perform NORM surveys may be acquired through a course recognized by the division as providing adequate instruction of the subjects outlined in this Appendix.

The division may accept other forms of documentation which verify that an individual has demonstrated competence with the subjects outlined in this Appendix.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 30:2001 et seq.

**HISTORICAL NOTE:** Repealed and repromulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 18: (June 1992).

James B. Thompson, III  
Assistant Secretary

**RULE**

**Department of Environmental Quality  
Office of Air Quality and Radiation Protection  
Air Quality Division**

**Standards of Performance for Volatile Organic Compound (VOC) Emissions from Polymer Manufacturing Industry (AQ47) (LAC 33:III.3815)**

Under the authority of the Louisiana Environmental Quality Act, R.S. 30:2001 et seq., particularly R.S. 30:2054, and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950, et seq., the secretary has amended the Air Quality Regulations, LAC 33:III.3815, (AQ47).

This rule is identical to 40 CFR 60, Subpart DDD with changes to the outline and internal references to match the Louisiana Administrative Code (LAC). This proposed rule does not deviate from the CFR except for the above referenced format. It defines the emission standards for volatile organic emissions from the polymer manufacturing industry, monitoring requirements, test methods and procedures, and recordkeeping and reporting requirements.

Copies of the rule may be obtained from the Office of the State Register, 1051 North Third Street, Baton Rouge, LA 70802.

James B. Thompson, III  
Assistant Secretary

**RULE**

**Office of the Governor  
Division of Administration  
Office of Telecommunications Management**

**Non-State Entity Use (LAC 4:IX.Chapters 5 and 20)**

## Subchapter B. Area Agency on Aging

### §1141. Priority Services

#### A. General Rules

1. The area agency must allot the following minimum percentages of their funding under Title III-B of the Older Americans Act for the designated service categories:

- a. access services = 30 percent;
- b. in-home services = 15 percent; and
- c. legal assistance = 5 percent.

2. - 3. ...

#### B. ...

AUTHORITY NOTE: Promulgated in accordance with OAA §306(a)(2), §306(b)(2), and §307(a)(12).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Elderly Affairs, LR 10:464 (June 1984), amended LR 11:1078 (November 1985), LR 18: (June 1992).

### §1143. Service Procurement

A. General Rules for Services Funded under Title III of the Older Americans Act

1. Area agencies on aging use procurement contracts or subcontracts with service providers to provide all Title III services under their respective approved area plans except as provided in Subsection B of this Section.

2. - 5. ...

B. Criteria for Direct Delivery of Services by an Area Agency

1. Area agencies may directly deliver services determined by the Governor's Office of Elderly Affairs to be directly related to area agency on aging administrative functions. GOEA has defined these services as the following: Advocacy/Representation, Assessment/Screening, Discount, Follow-Up/Evaluation, Guardianship/Protective Services, Information and Referral, Interpreting/Translating, Letter Writing/Reading, Material Aid, Outreach/Client Finding, and Placement.

2. - 3. ...

C. - F. ...

AUTHORITY NOTE: Promulgated in accordance with OAA Section 307(a)(10), OMB Circular A-110.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Elderly Affairs, LR 10:464 (June 1984), amended LR 11:621 (June 1985), LR 11:1078 (November 1985), LR 16:503 (June 1990), LR 18: (June 1992).

## Subchapter D. Service Provider Responsibilities

### §1199. Property Control and Disposition

A. ...

B. Definitions

1. *Equipment* - tangible personal property with an acquisition cost equal to or greater than \$250 and a useful life of more than one year. All such property must be tagged.

2. - 6. ...

C. - F. ...

AUTHORITY NOTE: Promulgated in accordance with OAA Section 307(a)(7) and 45 CFR Part 74 Subpart 0.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Elderly Affairs, LR 10:464 (June 1984), amended LR 11:1078 (November 1985), LR 18: (June 1992).

### §1201. Purchasing

A. - C. ...

D. Small Purchase Procedures

1. Purchases equal to or less than \$250. No competitive bidding is required.

2. Purchases over \$250 but less than or equal to \$2,000 shall be made by soliciting three written price quotations whenever time permits. If time does not permit, tele-

phone and/or telegraph quotations may be obtained and purchases made on the basis of the lowest quotation received. However, it shall be determined in writing why time did not permit written quotations.

3. Purchases Over \$2,000 but less than or equal to \$5,000. No such purchase shall be made except by sending out written invitations for bids to at least eight bona fide qualified bidders. In addition, the agency may advertise at its discretion. Written invitations for bids shall contain complete specifications, the quantity required, and shall stipulate that bids will be publicly opened and read at a specific date and time as well as such other pertinent information as the delivery point and other information sufficient for a supplier to make an acceptable bid.

4. Purchases Over \$5,000. No purchase where the estimated cost is over \$5,000 shall be made except by advertising in accordance with Subsection E of this Section and sending out written invitations for bids to at least eight bona fide qualified bidders.

5. Automotive, Machinery and Equipment Parts. Repairs and parts associated with these repairs for automobiles and machinery shall be obtained by either:

a. the use of an *authorized dealer*—a dealer certified by the manufacturer to perform maintenance on their equipment; or

b. obtaining competitive bids as indicated above.

6. Exceptions to minimum competitive requirements:

a. federal government surplus property;

b. textbooks, newspapers, subscriptions, or foreign publications, and membership;

c. all public utilities;

d. all services provided by local government (example: garbage pick-up).

7. Telephone or telegraph quotations should be obtained from at least three bona fide, qualified bidders where possible in the purchase of farm products which may include, but are not limited to, fresh vegetables, milk, eggs, fish, or other perishable foods.

E. - K. ...

AUTHORITY NOTE: Promulgated in accordance with OAA §307(a)(7).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Elderly Affairs, LR 10:464 (June 1984), amended LR 11:1078 (November 1985), LR 18: (June 1992).

Bobby Fontenot  
Director

## RULE

### Department of Health and Hospitals Board of Dentistry

In accordance with the applicable provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and the Dental Practice Act, R.S. 37:760(8), the Board of Dentistry has adopted the following rules and regulations:

#### Title 46

#### PROFESSIONAL AND OCCUPATIONAL STANDARDS

#### Part XXXIII. Dental Health Professions

#### Chapter 7. Dental Hygienists

#### §706. Requirements of Applicants for Licensure by Credentials

A. Before any applicant is awarded a license according to his/her credentials in lieu of an examination adminis-

tered by the board, said applicant shall provide to the board satisfactory documentation evidencing:

1. satisfactorily passing an examination administered by the Louisiana State Board of Dentistry testing the applicant's knowledge of the Louisiana Dental Practice Act and the Jurisprudence affecting same;

2. is currently licensed in another state as defined in R.S. 37:751(I);

3. has been in active practice or full-time dental hygiene education for a minimum of one year immediately prior to applying for licensure;

4. is endorsed as being in good standing by the State Board of Dentistry in the state of current practice and all prior states of licensure and practice;

5. has not failed the clinical examination of the Louisiana State Board of Dentistry within the last three years;

6. has never been convicted of a felony;

7. has no pending criminal charges against him/her;

8. has never been charged with and found guilty of or entered into a consent agreement with any state board of dentistry to any charge affecting his/her ability to practice dental hygiene or showing evidence of unprofessional conduct;

9. has paid all costs and fees (non-refundable);

10. has fully completed required application form with all supporting data and certification of competency and good character;

11. has appeared for a personal interview before the board;

12. has submitted two recent passport type color photographs;

13. has all units of time accounted for;

14. has provided true copy of diploma(s) and/or National Board examination grades and transcript of dental hygiene school grades;

15. has furnished three letters of recommendation from professional associates, i.e. associations, boards, or prior employers listed on application for licensure on letter-head stationery from said organization;

16. possesses a current certificate in cardiopulmonary resuscitation;

17. is a citizen or permanent resident of the United States;

18. is free of any communicable or contagious disease, including but not limited to Human Immunodeficiency Virus and Hepatitis B Virus, and provide a certificate of health to the board from a qualified licensed physician.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(B) and R.S. 37:768.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 18: (June 1992).

#### **§707. Criteria to be Utilized to Determine Professional Competence, Conduct and Ethics of an Applicant Seeking Licensure by Credentials**

A. The following procedures shall be utilized by the board in determining the professional ability, conduct, and character of all applicants for a dental hygiene license in Louisiana by licensure by credentials:

1. information from the National Practitioner Data Bank and/or the American Association of Dental Examiners' Clearinghouse for Disciplinary Information;

2. questioning under oath;

3. results of peer review reports from constituent societies of the American Dental Hygienists' Association and the

constituent societies of the American Dental Association in all states wherein the applicant is or has been licensed, and/or federal dental hygiene services;

4. drug testing if reasonable cause is presented;

5. background check for criminal or fraudulent activities or conduct reflecting upon one's professional conduct or ability;

6. the board reserves the right to conduct investigations into any and all information provided to satisfy statutory or regulatory requirements for licensure by credentials. False or fraudulent statements or material omission will result in denial of licensure or suspension of licensure if discovered after issuance of a license.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(B) and R.S. 37:768.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 18: (June 1992).

C. Barry Ogden  
Executive Director

### **RULE**

#### **Department of Health and Hospitals Board of Dentistry**

In accordance with the applicable provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and the Dental Practice Act, R.S. 37:760(8), the Board of Dentistry has amended the following rules and regulations.

#### **Title 46**

#### **PROFESSIONAL AND OCCUPATIONAL STANDARDS Part XXXIII. Dental Health Professions**

#### **Chapter 3. Dentists**

#### **§301. Listing as Dental Specialists**

A. Dentists who are not specialists certified by a certifying board under educational standards approved by the Louisiana State Board of Dentistry, but who advertise a field of practice for which approved educational standards exist, must advertise their field of practice in such a way that the public is not misled into believing that the dentist has met the educational requirements for a certified specialist.

B. The board has reviewed and approved the Standards for Advanced Specialty Education Programs set forth by the Commission on Dental Accreditation of the American Dental Association in following the specialties:

#### **C. Definitions**

*Dental Public Health* - the science and art of preventing and controlling dental diseases and promoting dental health through organized community efforts. It is that form of dental practice which serves the community as a patient rather than the individual. It is concerned with the dental health education of the public, with applied dental research, and with the administration of group dental care program, as well as the prevention and control of dental diseases on a community basis. Implicit in this definition is the requirement that the specialist have broad knowledge and skills in public health administration, research methodology, the prevention and control of oral diseases, the delivery and financing of oral health care, and the identification and development of resources to accomplish health goals.

*Endodontics* - the branch of dentistry that is concerned with the morphology, physiology, and pathology of the human dental pulp and periradicular tissues. Its study and practice encompass the basic clinical sciences including biology of the normal pulp; the etiology, diagnosis, prevention, and treatment of diseases and injuries of the pulp; and associated periradicular condition.

*Oral and Maxillofacial Surgery* - the specialty of dentistry which includes the diagnosis, surgical and adjunctive treatment of diseases, injuries and defects involving both the functional and esthetic aspects of the hard and soft tissues of the oral and maxillofacial region.

*Oral Pathology* - the specialty of dentistry and discipline of pathology which deals with the nature, identification, and management of diseases affecting the oral and maxillofacial regions. It is a science that investigates the causes, processes and effect of these diseases. The practice of oral pathology includes research; diagnosis of diseases using clinical, radiographic, microscopic, biochemical, or other examinations; and management of patients.

*Orthodontics* - the area of dentistry concerned with the supervision, guidance and correction of the growing or mature dentofacial structures, including those conditions that require movement of teeth or correction of malrelationships and malformations of their related structures and the adjustment of relationships between and among teeth and facial bones by the application of forces and/or the stimulation and redirection of functional forces within the craniofacial complex. Major responsibilities of orthodontic practice include the diagnosis, prevention, interception and treatment of all forms of malocclusion of the teeth and associated alterations of their surrounding structures; the design, application and control of functional and corrective appliances; and the guidance of the dentition and its supporting structures to attain and maintain optimum occlusal relations in physiological and esthetic harmony among facial and cranial structures.

*Pediatric Dentistry* - the practice, teaching of and research in comprehensive, preventative and therapeutic oral health care of children from birth through adolescence. It shall be construed to include care for special patients beyond the age of adolescence who demonstrate mental, physical and/or emotional problems.

*Periodontics* - the branch of dentistry which deals with the diagnosis and treatment of the supporting and surrounding tissues of the teeth or their substitutes. The maintenance of the health of these structures and tissues, achieved through periodontal procedures, is also considered to be the responsibility of the periodontist. Scope shall be limited to preclude permanent restorative care.

*Prosthodontics* - the branch of dentistry pertaining to the restoration and maintenance of oral function, comfort, appearance and health of the patient by the restoration of the natural teeth and/or the replacement of missing teeth and contiguous oral and maxillofacial tissue with artificial substitutes.

D. Anyone not qualified for the specialties listed in Subsection C must disclose "General Dentistry" or "Family Dentistry" in print larger than any field of practice or service.

E. In radio or television advertising, the disclosure must be made in the same mode (visual or audio) as the representation concerning the field(s) of practice. Audio disclosures must be made at the same decibel level as the representation concerning the field(s) of practice.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(B)

HISTORICAL NOTE: Adopted by the Department of Health and Human Resources, Board of Dentistry, December 1970, amended LR 13:179 (March 1987), amended by Department of Health and Hospitals, Board of Dentistry, LR 15:966 (November 1989), LR 18: (June 1992).

#### §304. Address of Dental Practice

A. Each dentist shall inform the Louisiana State Board of Dentistry of all office addresses at which the dentist practices dentistry in conformity with R.S. 37:770 B. Failure of a dentist to notify the board within 30 days of any office move or relocation will result in the imposition of any one or more of the penalties set forth in R.S. 37:780 B.

B. Within 30 days following the abandonment of any office located within Louisiana, all signs or references to the practice of dentistry at said former office by the dentist shall be removed. This pertains to all references whether attached or not attached to the abandoned premises. A licensee's failure to remove said signs in accordance with this Section will result in the imposition of any one or more of the penalties set forth in R.S. 37:780 B.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(B).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 15:965 (November 1989), amended LR 18: (June 1992).

#### §306. Requirements of Applicants for Licensure by Credentials

A. Before any applicant is awarded a license according to his/her credentials in lieu of an examination administered by the board, said applicant shall provide to the board satisfactory documentation evidencing:

1. satisfactorily passing an examination administered by the Louisiana State Board of Dentistry testing the applicant's knowledge of the Louisiana Dental Practice Act and the Jurisprudence affecting same;

2. is currently licensed in another state as defined in R.S. 37:751(I);

3. has been in active practice or full-time dental education for a minimum of three years immediately prior to applying for licensure; or has completed a two-year general dentistry residency program or training in one of the eight board-recognized dental specialties as defined in §301 of this Chapter within three years immediately prior to applying for licensure by credentials;

4. is endorsed as being in good standing by the State Board of Dentistry in the state of current practice and all prior states of licensure and practice;

5. has not failed the clinical examination of the Louisiana State Board of Dentistry within the last three years;

6. has never been convicted of a felony;

7. has no pending criminal charges against him/her;

8. has never been charged with and found guilty of or entered into a consent agreement with any State Board of Dentistry to any charge affecting his ability to practice dentistry or showing evidence of unprofessional conduct;

9. has paid all costs and fees (non-refundable);

10. has fully completed required application form with all supporting data and certification of competency and good character;

11. has appeared for a personal interview before the board;

12. has submitted Drug Enforcement Administration registration certificate number and state narcotics license number in all states wherein same are held or have been held;

13. has submitted two recent passport type color photographs;

14. has all units of time accounted for;

15. has provided true copy of diploma(s) and/or national board examination grades;

16. has furnished three letters of recommendation from professional associates, i.e. associations, boards, or prior employers listed on application for licensure on letter-head stationery from said organization;

17. possesses a current certificate in cardiopulmonary resuscitation;

18. is a citizen or permanent resident of the United States;

19. is free of any communicable or contagious disease, including but not limited to Human Immunodeficiency Virus and Hepatitis B Virus, and provide a certificate of health to the board from a qualified licensed physician.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(B) and R.S. 37:768.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 18: (June 1992).

### **§307. Criteria to be Utilized to Determine Professional Competence, Conduct and Ethics of an Applicant Seeking Licensure by Credentials**

A. The following procedures shall be utilized by the board in determining the professional ability, conduct, and character of all applicants for a dental license in Louisiana by licensure by credentials:

1. information from the National Practitioner Data Bank and/or the American Association of Dental Examiners' Clearinghouse for Disciplinary Information;

2. questioning under oath;

3. results of peer review reports from constituent societies of the American Dental Association or in all states wherein the applicant is or has been licensed, and/or federal dental services;

4. drug testing if reasonable cause is presented;

5. background check for criminal or fraudulent activities or conduct reflecting upon one's professional conduct or ability;

6. the board reserves the right to conduct investigations into any and all information provided to satisfy statutory or regulatory requirements for licensure by credentials. False or fraudulent statements or material omission will result in denial of licensure or suspension of licensure if discovered after issuance of a license.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(B) and R.S. 37:768.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 18: (June 1992).

### **§308. Licensure by Credentials for Those Applicants Possessing D.D.S., D.M.D. and/or M.D. Degrees.**

A. The board shall issue a license to an applicant without the necessity of further examination except as required by R.S. 37:761, if it is determined that the applicant meets the requirements of §306 of this Chapter or:

1. is a graduate, with either a D.D.S. or D.M.D., of an

accredited dental school or college or of a dental department of a university approved by the board and accredited by the Commission on Dental Accreditation of the American Dental Association; and

2. is licensed to practice dentistry in another state as defined in R.S. 37:751(I); and

3. has successfully completed a graduate training program in a recognized specialty branch of dentistry; or has completed a residency in general dentistry as recognized by the American Dental Association; and

4. is currently duly licensed to practice medicine in this state.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(B) and R.S. 37:768.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 18: (June 1992).

C. Barry Ogden  
Executive Director

## **RULE**

### **Department of Health and Hospitals Board of Dentistry**

In accordance with the applicable provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and the Dental Practice Act, R.S. 37:760(8), the Board of Dentistry has adopted the following rule and regulations:

#### **Title 46**

### **PROFESSIONAL AND OCCUPATIONAL STANDARDS Part XXXIII. Dental Health Professions**

#### **Chapter 1. General Provisions**

#### **§104. Display of License**

A. All Louisiana licensees holding either a dental or dental hygiene license shall display their license in full and open view for all patients to observe along with all current renewal permits of said license.

B. All certificates or permits authorizing the administration of anesthesia, analgesia or sedation shall also be displayed in full and open view in close proximity to those licenses and renewal certificates required by this rule to be kept in open and full view for the public to observe.

C. When licensees provide dental services in more than one facility, a copy of those licenses and/or certificates shall suffice in place of the original and said copy shall be displayed in full and open view for all patients to see.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(B).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 18: (June 1992).

C. Barry Ogden  
Executive Director



**RULE**  
**Department of Health and Hospitals**  
**Board of Dentistry**

In accordance with the applicable provisions of the Administrative Procedure Act, R.S. 49:950, et seq., and the Dental Practice Act, R.S. 37:760(8), the Board of Dentistry has amended the following rules and regulations:

**Title 46**  
**PROFESSIONAL AND OCCUPATIONAL STANDARDS**  
**Part XXXIII. Dental Health Professionals**

**Chapter 4. Fees and Costs**  
**Subchapter C. Fees for Dentists**

**§415. Licenses, Permits and Examinations**

A. For processing applications for licensure, permits and examinations, the following fees shall be payable in advance to the board:

1. Examination and licensing of dental applicant \$400
2. Temporary dental license . . . . . \$100
3. Issuance of a restricted dental license (excluding advanced education students and dental residents) . . . \$200
4. Annual renewal fee for dental license . . . . . \$150
5. Annual renewal fee for restricted dental license (excluding advanced education students and dental residents) . . . . . \$150
6. Replacement or duplicate dental license, certificate, temporary permit. . . . . \$ 50
7. Delinquency fee in addition to renewal fee for any dental license . . . . . \$250
8. Reinstatement of a license which has been suspended, revoked or which has lapsed by non-renewal . . . \$500
9. Annual processing fee for application for retired dentist classification . . . . . \$ 25
10. Restricted dental license, advanced education students and dental residents:
  - a. For period July 1 - December 31 . . . . . \$100
  - b. For each full year  
(January 1 - December 31) thereafter . . . . . \$200
  - c. For period January 1 - June 30 . . . . . \$100
11. Dental application and licensure by credentials (non-refundable) . . . . . \$1,500

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 37:60(B) and R.S. 37:768.

**HISTORICAL NOTE:** Promulgated by Department of Health and Hospitals, Board of Dentistry, LR 14:792 (November 1988), amended LR 16:566 (June 1990), LR 18: (June 1992).

**Subchapter D. Fees for Dental Hygienists**

**§419. Licenses, Permits and Examinations**

A. For processing applications for licensure, permits and examinations, the following fees shall be payable in advance to the board:

1. Examination and licensing of dental hygienist applicant . . . . . \$200
2. Temporary dental hygienist permit . . . . . \$100
3. Annual renewal fee for dental hygienist license \$ 50
4. Replacement or duplicate dental hygienist license, certificate, temporary permit. . . . . \$ 50
5. Delinquency fee in addition to renewal fee for any dental hygienist license . . . . . \$100
6. Reinstatement of a dental hygienist license which has been suspended, revoked or which has lapsed by non-renewal . . . . . \$250

7. Annual processing fee for application for nonpracticing dental hygienist status . . . . . \$ 25
8. Dental hygiene application and licensure by credentials (non-refundable) . . . . . \$600

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 37:760 (8) and R.S. 37:768.

**HISTORICAL NOTE:** Promulgated by Department of Health and Hospitals, Board of Dentistry, LR 14:792 (November 1988), amended LR 16:566 (June 1990), LR 18: (June 1992).

C. Barry Ogden  
 Executive Director

**RULE**

**Department of Health and Hospitals**  
**Board of Dentistry**

In accordance with the applicable provisions of the Administrative Procedure Act, R.S. 49:950, et seq., and the Dental Practice Act, R.S. 37:760(8) and R.S. 37:1747, the Board of Dentistry has adopted the following rule and regulation:

**Title 46**  
**PROFESSIONAL AND OCCUPATIONAL STANDARDS**  
**Part XXXIII: Dental Health Professions**  
**Chapter 12. Transmission Prevention of Hepatitis B Virus and Human Immunodeficiency Virus**

**§1201. Scope of Chapter**

As authorized and mandated by R.S. 37:1747, the rules of this Chapter prescribe practice and reporting requirements for dental health care providers including, but not limited to, dentists and dental hygienists to protect the public from the risk of the transmission of the Hepatitis B Virus (HBV) and the Human Immunodeficiency Virus (HIV) to patients.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 37:1746-1747 and R.S. 37:760(8).

**HISTORICAL NOTE:** Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 18: (June 1992).

**§1202. Definitions**

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

*AIDS* - acquired immune deficiency syndrome, as determined by the Federal Centers for Disease Control.

*Board* - Louisiana State Board of Dentistry.

*Dental Health Care Provider* - any dentist, dental hygienist, or other personnel working under the supervision of a dentist in a dental health care setting who may perform exposure-prone procedures during patient care.

*Disinfect* - to inactivate virtually all recognized pathogenic microorganisms, but not necessarily all microbial forms (e.g. bacterial endospores) on inanimate objects.

*Exposure-Prone Procedure* - an invasive procedure in which there is an increased risk of percutaneous injury to the practitioner by virtue of digital palpation of a needle tip or other sharp instrument in a body cavity or the simultaneous presence of the practitioner's fingers and a needle or other sharp instrument or object in a poorly visualized or highly confined anatomic site, or any other invasive procedure in

which there is a significant risk of contact between the blood or body fluids of the dental health care provider and the blood or body fluids of the patient.

*Function Ancillary to an Invasive Procedure* - the preparation, processing, or handling of blood, fluids, tissues or instruments which may be introduced into or come into contact with any body cavity, internal organ, subcutaneous tissue, submucosal tissue, mucus membrane or percutaneous wound of the human body in connection with the performance of an invasive procedure.

*HBV* - the Hepatitis B Virus.

*HBV Seronegative* - a condition where one has been HBV seropositive but is no longer infectious under the criteria of the Federal Centers for Disease Control or the Association of State and Territorial Public Health Laboratory Directors.

*HBV Seropositive* - a condition where one has developed antigens sufficient to diagnosis seropositivity to HBV evidencing infectability under the criteria of the Federal Centers for Disease Control or the Association of State and Territorial Public Health Laboratory Directors.

*HIV* - any strain of the human immunodeficiency virus.

*HIV Seropositive* - a condition where one has developed antibodies sufficient to diagnose seropositivity to HIV under the criteria of the Federal Centers for Disease Control or of the Association of State and Territorial Public Health Laboratory Directors.

*Invasive Procedure* - any surgical or other diagnostic or therapeutic procedure involving manual or instrumental contact with or entry into any blood, body fluids, cavity, internal organ, subcutaneous tissue, mucous membrane, or percutaneous wound of the human body.

*Sterilization* - the process by which all forms of microorganisms within an environment are totally destroyed.

*Universal Precautions* - those generally accepted infection control practices, principles, procedures, techniques and programs as recommended by the Federal Centers for Disease Control to minimize the risk of transmission of HBV or HIV from a dental health care provider to a patient, from a patient to a dental health care provider, or from a patient to a patient, as such recommendations may be amended or supplemented from time to time.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1746-1747 and R.S. 37:760(8).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 18: (June 1992).

### §1203. Universal Precautions

All dental health care providers who perform invasive procedures or perform functions ancillary to invasive procedures shall in the performance of any such procedures or functions, strictly observe recognized universal precautions as currently recommended by the Federal Centers for Disease Control to minimize the risk of transmission of HBV or HIV.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1746-1747 and R.S. 37:760(8).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 18: (June 1992).

### §1204. Investigations

In order to ensure compliance with this Chapter, the board shall conduct random announced inspections upon

providing 48 hour notice. Notice may be provided by verbal, written, telephone or with other telecommunication means. Refusal by any licensee of access to licensee's premises for the purpose of conducting said inspection shall constitute a violation of R.S. 37:776(A)(24) and R.S. 37:775(6).

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1746-1747 and R.S. 37:760(8).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 18: (June 1992).

### §1205. Prohibitions and Restrictions

Except as may be permitted pursuant to §1206, §1207.G and §1210 of this Chapter, a dental health care provider who is seropositive for HIV or HBV, or who otherwise knows or should know that he or she carries and is capable of transmitting HBV or HIV, shall not thereafter perform or participate directly in an exposure-prone procedure.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1746-1747 and R.S. 37:760(8).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 18: (June 1992).

### §1206. Exception; Informed Consent of Patient

A. Notwithstanding the prohibition of §1205 of this Chapter, a seropositive dental health care provider may nonetheless perform or participate in an exposure-prone procedure with respect to a patient when each of the following four conditions is met:

1. The dental health care provider has affirmatively advised the patient, or the patient's lawfully authorized representative, that the dental health care provider has been diagnosed as HBV seropositive and/or HIV seropositive as the case may be.

2. The patient, or the patient's lawfully authorized representative, has been advised of the risk of the dental health care provider's transmission of HBV and/or HIV to the patient during an exposure-prone invasive procedure. Such information shall be communicated personally by the dentist to the patient or the patient's lawfully authorized representative.

3. The patient, or the patient's lawfully authorized representative, has subscribed a written instrument setting forth:

a. identification of the exposure-prone procedure to be performed by the dental health care provider with respect to the patient;

b. an acknowledgement that the advice required by Subsections A.1 and 2 hereof have been given to and understood by the patient or the patient's lawfully authorized representative; and

c. the consent of the patient or the patient's lawfully authorized representative, to the performance of or participation in the designated procedure by the dental health care provider.

4. The dental health care provider's HBV and/or HIV seropositivity has been affirmatively disclosed to each dental health care provider or other health care personnel who may participate or assist in the exposure-prone procedure.

B. Consent given pursuant to Subsection A of this Section may be revoked by a patient, or a patient's lawfully authorized representative, at any time prior to performance of the subject procedure by any verbal or written communication to the dental health provider expressing an intent to revoke, rescind or withdraw such consent.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1746-1747 and R.S. 37:760(8).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 18: (June 1992).

**§1207. Self-Reporting**

A. Any dental health care provider who in the course of practice may at any time undertake to perform or participate in an exposure-prone procedure and who is or becomes HBV seropositive or HIV seropositive shall be required to give notice of such seropositivity to the board in accordance with the provisions of this Section.

B. Within 90 days of the effective date of this Chapter, any dental health care provider who has previously been verified as being HBV seropositive or HIV seropositive shall give notice of such diagnosis to the board on a reporting form supplied by the board.

C. Within 10 days from the date on which a dental health care provider has been verified as being HBV seropositive or HIV seropositive, the dental health care provider shall give notice of such diagnosis to the board on a reporting form supplied by the board which shall be mailed to the executive director of the board, marked "personal and confidential," by registered or certified mail.

D. An applicant for licensure as a dental health care provider who at the time of application is verified as being HBV seropositive or HIV seropositive shall acknowledge such diagnosis in his or her written application to the board.

E. Aforementioned reporting forms will be provided to each licensee with his or her license and additionally with his or her annual license renewal application, or upon request.

F. The seropositive dental health care provider must submit to evaluation within 15 working days of his notification by the board ordering said dental health care provider to be examined by experts selected by the board, and those experts must complete and submit their reports to the executive director of the board with 15 days following their examination.

G. Reports from two physicians and two laboratories evidencing change in the dental health care provider's serostatus shall be submitted to the executive director for board evaluation of the change of serostatus when any dental health care provider previously verified as HBV seropositive who becomes HBV seronegative.

H. Any dental health care provider or applicant for licensure who is required under this Section to report his/her HIV/HBV seropositive status and fails or neglects to provide notice as set forth in this Section shall be deemed in violation of R.S. 37:776(A)(1), (3), (7), (12), (16), (17), (20) and (24), and subject to sanctions associated therewith.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1746-1747 and R.S. 37:760(8).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 18: (June 1992).

**§1208. Confidentiality of Reported Information**

A. Reports and information furnished to the board pursuant to §1207 of this Chapter and records of the board relative to such information shall not be deemed public records, but shall be deemed and maintained by the board as confidential and privileged and shall not be subject to disclosure by means of subpoena in any judicial, administrative or investigative proceeding; provided that such reports, information and records may be disclosed by the board as

necessary for the board to investigate or prosecute alleged violations of this Chapter.

B. The identity of the seropositive practitioner or applicant for licensure who has reported their status as being HIV or HBV seropositive pursuant to §1207 of this Chapter shall be maintained in confidence by the board on all matters pertaining to the HIV and HBV diseases, and shall not be disclosed to any other party, except as may be necessary in the investigation or prosecution of suspected violations of this Chapter, necessary for the evaluation and monitoring of the physical and psychological condition of the seropositive practitioner or applicant for licensure, or as allowed by R.S. 40:1300.14.

C. Provided that the identity of self-reporting practitioners and applicants seeking licensure is not disclosed, the provisions of this Section shall not be deemed to prevent disclosure by the board of statistical data derived from such reports, including, without limitation, the number and licensure class of those who have reported themselves as HIV or HBV seropositive and their geographical distribution.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1746-1747 and R.S. 37:760(8).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 18: (June 1992).

**§1209. Advertisement of HIV/HBV Status Prohibited**

No licensee may advertise within the state of Louisiana his/her HIV/HBV status or whether the dental office or environment is free of HIV/HBV.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1746-1747 and R.S. 37:760(8).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 18: (June 1992).

**§1210. Authorization to Practice; Expert Review Panel**

A. Dental health care providers who are HIV/HBV seropositive shall not perform exposure-prone procedures unless and until they have provided proper notice as required by this Chapter; submitted to periodic physical and psychological evaluations by board-appointed expert review panel, and have received authorization to practice and perform procedures as determined by said appointed panel. The panel shall serve as a consultant on a case-by-case determination of whether a procedure, when performed by a particular dental health care provider, does not pose a danger to the public. The panel must timely report any adverse or detrimental changes in the physical or psychological condition of the dental health care provider to the board. Following receipt of any and all such reports, the board shall have the right and the duty to re-evaluate the authorized procedures being practiced by the dental health care provider and may revise same or revoke same in its entirety if said report shows a change in the dental health care provider's physical or psychological condition which may affect the safety of the public.

B. Upon receipt of an adverse report from the panel, the board must review and evaluate said report, within 15 days of receipt of same, and take any and all necessary action to protect the safety of the public.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1746-1747 and R.S. 37:760(8).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 18: (June 1992).

C. Barry Ogden  
Executive Director

## RULE

### Department of Health and Hospitals Office of Public Health

Notice is hereby given that the State Health Officer, pursuant to the notice of intent published March 20, 1992 and in accordance with the provisions of R.S. 40:2, 40:4, 40:5 and the Administrative Procedure Act, R.S. 49:950 et seq., has revised and updated Chapter XIV (Plumbing) of the Sanitary Code, state of Louisiana as stated below.

#### SANITARY CODE

#### CHAPTER XIV. PLUMBING

The Department of Health and Hospitals, Office of Public Health hereby updates and revises Chapter XIV (Plumbing) of the Sanitary Code, State of Louisiana. This rule replaces in its entirety Chapter XIV (Plumbing) of the Sanitary Code, State of Louisiana, promulgated March 20, 1984, and all subsequent amendments. This rule adopts as the new Chapter XIV (Plumbing) of the Sanitary Code, State of Louisiana (hereinafter referred to as "the Louisiana State Plumbing Code"): (1) the 1991 Edition of the Standard Plumbing Code and (2) the 1992 Louisiana amendments to the 1991 Standard Plumbing Code.

#### 14:001 Authority

This rule is adopted by the state health officer in accordance with R.S. 40:4, approved by the secretary of the Department of Health and Hospitals in accordance with R.S. 40:2, under the general powers and jurisdiction of the state health officer and the Office of Public Health in accordance with R.S. 40:5 and promulgated in accordance with R.S. 49:950 et seq.

#### 14:002 Availability

Information concerning the availability of copies of the Louisiana State Plumbing Code may be obtained by contacting the Southern Building Code Congress International, Inc., 900 Montclair Road, Birmingham, Alabama 35213-1206, (205) 591-1853 or by contacting the chief sanitarian, Office of Public Health, 325 Loyola Avenue, Box 60630, New Orleans, LA 70160, (504) 568-5181.

The Standard Plumbing Code is published by the Southern Building Code Congress International, Inc.

The Louisiana State Plumbing Code may be reviewed at any of the Office of Public Health regional offices and at the office of the chief sanitarian between the hours of 8 a.m. and 4:30 p.m. on regular work days. The locations of the Office of Public Health offices are as follows: Region I, 3308 Tulane Ave., Fifth Floor, New Orleans, (504) 826-2421; Region II, 1772 Wooddale Blvd., Baton Rouge, (504) 925-7230; Region III, 206 E. Third St., Thibodaux, (504) 447-0916; Region IV, 825 Kaliste Salloom Road, Suite 100, Lafayette, (318) 265-5311; Region V, 4240 Legion St., Lake Charles, (318) 491-2040; Region VI, 1335 Jackson St., Alexandria, (318) 487-5186; Region VII, 1525 Fairfields Ave., Room 566, Shreveport, (318) 226-7477; Region VIII, 2813 Betin St.,

Monroe, (318) 362-5246; Region IX, 111 North Causeway Blvd., Metairie, (504) 838-5100; chief sanitarian, 325 Loyola Ave., Room 210, New Orleans, (504) 568-5181.

#### 14:003 Effective Date

This rule shall become effective on September 20, 1992.

J. Christopher Pilley  
Secretary

## RULE

### Department of Health and Hospitals Office of Public Health

*(Editor's Note:* The following rule, which appeared on page 386 of the April, 1992 *Louisiana Register*, is being republished to correct a typographical error.)

Under the authority of R.S. 40:4 and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the state health officer of the Department of Health and Hospitals, Office of Public Health, hereby amends Chapter 1 (General Provisions) of the Sanitary Code. This amendment is necessary so as to properly refer individuals to any of the regulations which implement the enforcement provisions of R.S. 40:5.9 (part of Act # 537 of 1991).

LAC 48:V.7701(B) relative to the Drinking Water Program currently managed by the Office of Public Health (OPH) [formerly the Office of Preventive and Public Health Services (OPPHS)], states in part that "Procedures used to enforce OPPHS regulations embodied in Chapter 12 of the Louisiana Sanitary Code are described in Chapter 1 of that code." Chapter 1 (General Provisions) of the Sanitary Code details Administrative Enforcement Procedures for the various regulations contained within the Sanitary Code. Chapter 12 (Water Supplies) of the Sanitary Code contains the majority of the regulations relative to public water systems.

R.S. 40:5.9 (part of Act # 537 of 1991) authorizes the state health officer to issue administrative orders and civil penalties to non-compliant public water systems. It further authorizes the state health officer to promulgate rules which delineate a procedure for calculating the monetary amount of any civil penalty assessment, such rules also being proposed today and referred to as the "Civil Penalty Assessment Rule" and "Accompanying Guidelines to the Civil Penalty Assessment Rule." If adopted as proposed, the "Civil Penalty Assessment Rule" and "Accompanying Guidelines to the Civil Penalty Assessment Rule" are to be contained as appendices within Chapter 12 (Water Supplies) of the Sanitary Code.

R.S. 40:5.9 (A)(1) states in part that "The power to issue an order ... is in addition to any other remedy afforded to the state health officer by law." With this in mind then, the state health officer is empowered to either utilize the Administrative Enforcement Procedures contained in Chapter 1 (General Provisions) of the Sanitary Code and/or he may utilize the enforcement procedures outlined in R.S. 40:5.9.

The amendments are effective on April 20, 1992, upon publication as a rule in the *Louisiana Register*.

For the above stated reasons, Chapter 1 is amended as follows:

Section 1:007-23 is amended and reenacted as follows:

1:007-23 Nothing herein shall be construed to affect, alter, delay or interfere with the utilization of the civil, judicial, and criminal enforcement procedures provided for in R.S. 40:4, 40:5, and 40:6.

Section 1:007-24 is enacted as follows:

1:007-24 When the state health officer chooses to utilize the administrative order/civil penalty authority granted within R.S. 40:5.9 relative to violations applicable to public water systems, the regulations which implement the enforcement provisions of this law are embodied within Chapter 12 (Water Supplies) of this Code.

J. Christopher Pilley  
Secretary

## RULE

### Department of Insurance Commissioner of Insurance

Pursuant to the provisions of the Administrative Procedure Act, R.S. 49:950 et seq. and R.S. 22:904 of the Insurance Code, the Department of Insurance hereby adopts Regulation 39 governing the submission of actuarial opinion reports by insurers selling certain types of liability policies.

#### Proposed Regulation 39 Statement of Actuarial Opinion

##### §1. Authority

This regulation is promulgated under the authority of Title 22:904 of the Insurance Code of the State of Louisiana and the Administrative Procedure Act, R.S. 49:950 et seq.

##### §2. Purpose

The purpose of this regulation is to implement Act 103 of the 1990 Regular Legislative Session. It is further intended to protect the public from the risk of insolvent insurance companies by requiring companies issuing certain types of policies to provide actuarial statement of opinion of loss and loss adjustment expense reserves. This will assist the agency in ensuring that adequate reserves are retained by insurers so that claims can be paid and minimize the necessity of putting companies into conservation and/or liquidation.

##### §3. Applicability and Scope

This regulation shall apply to all companies which issue policies of personal injury liability insurance, policies of employer's liability insurance, and policies of worker's compensation insurance. Companies which issue these types of policies shall attach to page 1 of the Annual Statement, the statement of a qualified actuary, entitled "Statement of Actuarial Opinion," setting forth his or her opinion relating to loss and loss adjustment expense reserves.

##### §4. Definitions

A. *Qualified actuary* is a person who is either:

1. a member in good standing of the Casualty Actuarial Society; or

2. a member in good standing of the American Academy of Actuaries who has been approved as qualified for signing casualty loss reserve opinion by the Casualty Practice Council of the American Academy of Actuaries; or

3. a person who otherwise has competency in loss reserve evaluation as demonstrated to the satisfaction of the

insurance regulatory official of domiciliary state. In such case, at least 90 days prior to the filing of its annual statement, the insurer must make a request to the commissioner that the person be deemed qualified. That request must be approved or denied by the commissioner or his designee. The request must include NAIC Biographical form and a list of all loss reserve opinions and/or certifications issued in the last three years by this person.

B. *Insurer* — an insurer authorized to write property and/or casualty insurance under the laws of any state and includes but is not limited to fire and marine companies, general casualty companies, local mutual aid societies, statewide mutual assessment companies, mutual insurance companies other than life, farm mutual insurance companies, county mutual insurance companies, Lloyd's plans, reciprocal and interinsurance exchanges, captive insurance companies, risk retention groups, stipulated premium insurance companies, and non-profit legal service corporations.

C. *Annual Statement* — the annual financial statement required to be filed by insurers with the commissioner.

##### §5. Content

The "Statement of Actuarial Opinion" shall be in the format of and contain the information required by Section 12 of the Annual Statement Instructions: Property and Casualty.

##### §6. Exemptions

Companies subject to this regulation may apply for an exemption. If an exemption is granted a certified copy of the approved exemption must be filed with the annual statement in all jurisdictions in which the company is authorized to do business. An exemption may be applied for solely on the following grounds:

###### A. Automatic Exemption

1. An insurer otherwise subject to this regulation that has less than \$1,000,000 total direct plus assumed written premiums during a calendar year or that has less than a total of 1,000 policyholders and certificate holders at the end of a calendar year, in lieu of the certification required for the calendar year, may submit an affidavit under oath of an officer of the insurer that specifies that amount of direct, plus assumed, premiums written and the total number of policyholders and certificate holders.

2. An insurer who intends to file for an exemption under this Section must submit a letter of intent to its domiciliary commissioner no later than December 1 of the calendar year for which the exemption is to be claimed. The commissioner may deny the exemption prior to December 31 of the same year if he deems the exemption inappropriate. If an insurer intends to file for an exemption for calendar year 1991 it must do so no later than January 31, 1992.

B. Exemption for Insurers under Supervision or Conservatorship, unless ordered by the domiciliary commissioner, an insurer that is under supervision or conservatorship pursuant to statutory provision is exempt from the filing requirement contained herein.

C. Exemption for Nature of Business, an insurer otherwise subject to this regulation and not eligible for an exemption as enumerated above may apply to its domiciliary commissioner for an exemption based on the nature of the business written. This exemption is available to those companies writing property lines only.

###### D. Financial Hardship Exemption

1. An insurer otherwise subject to this regulation and not eligible for any of the exemptions enumerated above may

apply to the commissioner for a financial hardship exemption.

2. Financial hardship is presumed to exist if the projected reasonable cost of the certification would exceed the lesser of:

a. one percent of the insurer's capital and surplus reflected in the insurer's annual statement filed with the department for the calendar year for which the exemption is sought; or

b. three percent of the insurer's net direct plus assumed premiums written during the calendar year for which the exemption is sought as reflected in the insurer's annual statement filed with its domiciliary commissioner.

James H. "Jim" Brown  
Commissioner

## RULE

### Department of Insurance Commissioner of Insurance

Pursuant to the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and R.S. 22:1395.18C of the Insurance Code, the Department of Insurance hereby adopts Regulation 40 which governs the form and content of a disclaimer to be incorporated into the summary document prepared by the Louisiana Life and Health Insurance Guaranty Association.

#### Regulation 40

#### LLHIGA Act Summary Document Disclaimer

Effective June 20, 1992

##### §1. Authority

This regulation is promulgated under the authority of Title 22:1395.18C of the Insurance Code of Louisiana and the Administrative Procedure Act, R.S. 49:950 et seq.

##### §2. Purpose

The purpose of this regulation is to implement Act 998 of the 1991 regular legislative session which is designed to protect covered persons against the risk of insurer insolvencies under certain life and health insurance policies.

##### §3. Applicability and Scope

This regulation applies to the Louisiana Life and Health Insurance Guaranty Association (LLHIGA) and its member insurers as defined by R.S. 22:1395.3. It sets forth the form and content of a disclaimer statement which is to be prepared by LLHIGA as a cover sheet to the summary document it is also required to prepare. Pursuant to R.S. 22:1395.18B the summary document with the disclaimer is to be delivered with each life or health insurance policy, as described in R.S. 1395.3(B)(1), issued or delivered in Louisiana.

##### §4. Form and Content

The disclaimer shall contain the information listed below in the following form:

Louisiana Life and Health Insurance  
Guaranty Association Disclaimer

The Louisiana Life and Health Insurance Guaranty Association (LLHIGA) may not provide coverage of claims under this policy if the insurer becomes impaired or insolvent. Even if coverage is provided there are significant limits and exclusions and coverage is always conditioned upon continued residence in this state. Other conditions may also pre-

clude coverage.

Therefore, you should not rely solely upon coverage provided by the Louisiana Life and Health Insurance Guaranty Association when selecting an insurance company or an insurance policy. Insurance companies and their agents are prohibited by law from using the existence of the Louisiana Life and Health Guaranty Association or its coverage to sell you an insurance policy.

The Louisiana Life and Health Insurance Guaranty Association or the Department of Insurance will respond to any questions you may have which are not answered by this document. They may be contacted at the following addresses:

The Louisiana Life and Health  
Insurance Guaranty Association  
Drawer 44126  
Baton Rouge, LA 70804

Department of Insurance  
Box 94214  
Baton Rouge, LA 70804-9214

James H. "Jim" Brown  
Commissioner

## RULE

### Department of Insurance Commissioner of Insurance

Pursuant to the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Insurance hereby amends Rule 12 by the adoption of Section Four. Section Four authorizes the use of alternative methods of transmission of information in addition to the United States Mail.

#### RULE NUMBER 12

##### §1.

All forms, documents, applications, filings, financial reports and any and all other forms and types of documents required by law or voluntarily filed with the Commissioner of Insurance by any company regulated by the office of the commissioner shall be filed by depositing the same in the United States Mail, postage prepaid. Payment of fees, including license fees, and premium taxes shall be exempt from this rule.

##### §2.

No document of any sort or kind described hereinabove will be accepted or received by the personnel of the department as filed with the department unless the same is transmitted to the department via the United States Mail.

##### §3.

Upon receipt of such documents mailed to the department, the employees of the department charged with the duty of receiving the same shall cause the envelope in which the document was mailed to the department to be attached to the document received in such a way that it shall remain permanently attached to the same and no employee of the department may remove said envelope for any reason.

##### §4.

Transmission of documents by Facsimile machine, private courier service or hand delivery is permissible as long as the originals are mailed in the United States Postal Service and received by the Department of Insurance on or before the twentieth day after receipt of the facsimile transmission, private courier delivery or hand delivery. A document received in accordance with this Section shall be

deemed received on the date of the receipt of the original facsimile transmission, private courier delivery or hand delivery. Any departmental approval shall be indicated on the initial facsimile transmission, private courier delivery or hand delivery.

James H. "Jim" Brown  
Commissioner

## RULE

### Department of the Treasury Board of Trustees of the Teachers' Retirement System

#### Policies for Implementation of the Deferred Retirement Option Plan

Notice is hereby given that the Board of Trustees of the Teachers' Retirement System, pursuant to notice of intent published March 20, 1992, and under authority contained in R.S. 11:702, and Act 62 of the 1991 Regular Session, adopted the policies for implementation of the Deferred Retirement Option Plan.

1. The Teachers' Retirement System of Louisiana (TRSL) will implement provisions of R.S. 11:786-791 (formerly R.S. 17:645 - 645.5), the Deferred Retirement Option Plan (DROP), July 1, 1992.

2. DROP participation may begin or end any day of the month. The effective date for participation in DROP will be the date a properly executed DROP application, including the designation of a DROP account beneficiary(ies), is filed in the office of the TRSL or the stated effective date on the properly executed DROP application, whichever is later.

3. Deposits to DROP accounts will be effective on the first day of each month of participation in the plan.

4. DROP account statements will be furnished on a quarterly basis as follows:

a. statements issued during DROP participation will reflect all account deposits for a quarterly period;

b. statements issued after completion of DROP participation and termination of employment will reflect all account withdrawals for a quarterly period; and

c. interest earnings will begin accruing the day after termination of DROP participation and will be deposited to DROP accounts in December of each year. Interest deposits will reflect the interest earned on the account during the previous fiscal year and will be entered on quarterly statements issued for the period of October 1 through December 31.

5. Participation in DROP may not exceed a period of two consecutive years, and the selected period, of participation may only be shortened by the participant's termination of employment or death.

6. Retirement benefits shall begin on the first day of the month immediately following termination in DROP in all of the following cases:

a. voluntary termination (the participant, for any reason, elects to withdraw from DROP prior to completing the selected participation period and also terminates employment);

b. involuntary termination (the participant is terminated by the employer prior to completing the selected participation period and is not rehired by another TRSL

employer on the following day); and

c. completion of selected DROP participation period and termination of employment.

7. Withdrawals from a DROP account are not permitted prior to the termination of DROP participation or during employment which continues immediately following the DROP participation period, and shall be limited to the following methods:

a. withdrawal of the total DROP account balance at the termination of DROP participation and employment;

b. monthly withdrawals in an amount to be determined by the life expectancy of the participant. This periodic payment shall not vary from month to month (refer to policy eight below);

c. monthly withdrawals based upon an amount to be withdrawn each month as specified by the participant. This periodic payment shall not vary from month to month, and the amount of the withdrawal must be greater than the amount necessary to liquidate the total account balance within the participant's life expectancy (refer to policy eight below);

d. annual withdrawals in an amount to be determined by the life expectancy of the participant. This periodic payment shall not vary from year to year. The participant shall select the month in which the annual payment is to be made, and the first payment must be made within the 12-month period immediately following DROP participation and termination of employment (refer to policy eight below);

e. annual withdrawals based upon an amount to be withdrawn each year as specified by the participant. This periodic payment shall not vary from year to year, and the amount of the withdrawal must be greater than the amount necessary to liquidate the total account balance within the participant's life expectancy. The participant shall select the month in which the annual payment is to be made, and the first payment must be made within the 12-month period immediately following DROP participation and termination of employment (refer to policy eight below); and

f. total DROP account balance withdrawal at any time after monthly or annual withdrawals have begun.

8. The participant will have one opportunity over the duration of DROP account withdrawals to change the chosen withdrawal method if the original method selected was either b., c., d., or e. in policy seven above. Any change in the withdrawal method must be made in accordance with the life expectancy of the participant, and at no time may the disbursement from the account be less than the amount of the originally selected periodic payment.

9. When the life expectancy of the participant governs the selected periodic withdrawal method, disbursements from the DROP account shall be made in accordance with the following schedule:



LIFE EXPECTANCY SCHEDULE

Age when DROP Participant Terminates Employment	Number of Months for Permitted Withdrawals	Number of Years for Permitted Withdrawals
Under 56	300 months	25 years
56 - 60	260 months	21 years
61 - 65	240 months	20 years
66 - 70	170 months	14 years
71 and older	120 months	10 years

10. The selection of a withdrawal method and the amount of the periodic payment must be designated by the participant 30 days prior to completion of DROP participation and termination of employment on the form prescribed by TRSL. Should a participant fail to choose a withdrawal method, or to notify TRSL that employment will continue, TRSL will consider the participant still employed. No benefit will be payable to the participant until official notification of termination of employment on the prescribed form is received in the office of TRSL.

11. When termination in DROP occurs because of the death of the DROP participant, the participant is considered retired the day death occurs, and retirement benefits will become effective for the regular and DROP beneficiary(ies) on the first day of the month immediately following the death of the participant.

12. In the event of the death of the participant during DROP participation, a spousal beneficiary shall select a withdrawal method from the options listed in policy seven above. Except for a total DROP account balance withdrawal, the spousal beneficiary will not be permitted to change the withdrawal method previously selected by the participant, if disbursements from the account began prior to the participant's death.

13. In the event of the death of the participant during DROP participation, a non-spousal beneficiary(ies) must either withdraw the total DROP account balance or elect equal monthly or annual payments from the DROP account for a period not to exceed five years, and the final distribution from the account shall be made no later than December 15 of the year in which the fifth anniversary of the death occurs. Except for a total DROP account balance withdrawal, the non-spousal beneficiary(ies) will not be permitted to change the withdrawal method previously selected by the participant if disbursements from the account began prior to the participant's death.

14. In the event of the death of a surviving spousal or non-spousal beneficiary, any remaining DROP account balance will be paid to the estate of the beneficiary.

15. Withdrawal payments from DROP accounts will be issued on the fifteenth day of each month.

16. DROP accounts will be subject to all Louisiana laws governing community property, inheritance and estate matters, and will be administered in accordance with applicable state laws and orders of the court.

AUTHORITY NOTE: R.S. 11:786-791.

HISTORICAL NOTE: LR 18: (June 1992).

James P. Hadley, Jr.  
Director

# Notices of Intent

## NOTICE OF INTENT

**Department of Agriculture and Forestry  
Office of Agricultural and Environmental Sciences**

Pesticide - Commercial Applicators Certification  
(LAC 7:XXIII.Chapter 131)

The Department of Agriculture and Forestry advertises its intent to adopt rules revising LAC 7:XXIII.Chapter 131. These rules will establish certification requirements for yearly training courses on off-target aerial pesticide applications, provide for yearly registration of commercial aerial applicators using any of five specifically named pesticides, along with a spray height limit for same, establish standards for booms, nozzles and pesticide concentrations on fixed wing aircraft, prohibit aerial applications in the rain and establish buffer zones between targets and adjoining areas. These proposed rules comply with R.S. 3:3201 et seq.

**Title 7**

**AGRICULTURE AND ANIMALS**

**Part XXIII. Pesticide**

**Chapter 131. Advisory Commission on Pesticides**

**§13123. Certification of Commercial Applicators**

**A. 1-3 ...**

**A.4.** Commercial aerial pesticide applicators, with the single exception of aerial mosquito pest control applicators, must attend department-approved off-target training courses once each year to maintain their certification as a commercial aerial applicator.

**B.-G. ...**

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 3:3203, R.S. 3:3242 and R.S. 3:3249.

**HISTORICAL NOTE:** Promulgated by the Department of Agriculture and Forestry, Advisory Commission on Pesticide, LR 9:169 (April 1983), amended LR 10:193 (March 1984), amended by the Department of Agriculture and Forestry,

Office of Agriculture and Environmental Sciences LR 18:  
**§13139. Restrictions on Application of Certain Pesticides**

A.-J. ...

K. Commercial aerial pesticide applicators who apply mixtures containing 1:1-Dimethyl-4, 4'-Bipyridinium (cation) dichloride, Isopropylamine salt of glyphosate, Sulfosate Trimethylsulfoniumcarboxymethylaminomethylphosphonate, 4-(2, 4-Dichlorophenoxy) butyric acid, and 2,4-Dichlorophenoxyacetic acid (commonly known as Gramoxone, Roundup, Touchdown, 2, 4-DB and 2, 4-D, respectively) must register with the department once yearly on department approved forms prior to making any applications of these chemicals. Effective January 1, 1993, Propanil must be registered under the provisions of this Subsection.

L. Commercial aerial pesticide applicators applying any concentrations of the chemicals named in the previous Subsection shall not apply these chemicals from a height of greater than 18 feet above the target field crops.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 3:3203, R.S. 3:3242 and R.S. 3:3249.

**HISTORICAL NOTE:** Promulgated by the Department of Agriculture and Forestry, Advisory Commission on Pesticide, LR 9:169 (April 1983), amended LR 10:193 (March 1984), LR 11:219 (March 1985), LR 11:942 (October 1985), amended by the Department of Agriculture and Forestry, Office of Agriculture and Environmental Sciences LR 18:

**§13140. Fixed Wing Aircraft; Standards for Commercial Aerial Pesticide Applications**

A. Commercial aerial pesticide applicators, with the single exception of aerial mosquito pest control applicators, shall adhere to the following standards for fixed wing aircraft, regarding boom configurations, nozzle angles, and volume of pesticides per acre:

1. the effective spray boom length shall not exceed 75 percent of the length of the wing (wing tip to wing tip) on which the boom is attached;

2. all spray nozzles shall be oriented to discharge straight back toward the rear of the aircraft;

3. the spray boom pressure shall not exceed a maximum of 40 pounds per square inch (40 PSI);

4. when disc and core type nozzles are used for herbicide, desiccant or defoliant applications, a number 46 or larger core must be used;

5. unless further restricted by other regulations or labeling, the chemicals listed in §13139.K above shall be applied in a minimum of five gallons of total spray mix per acre. All other agriculture pesticides, unless further restricted by other regulations or labeling, shall be applied in a minimum of one gallon of total spray mix per acre.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 3:3203.

**HISTORICAL NOTE:** Promulgated by the Department of Agriculture and Forestry, Office of Agriculture and Environmental Sciences, LR 18:

**§13142. Special Restrictions on Commercial Aerial Pesticide Applications; Applications in the Rain and Buffer Zones**

A. All aerial pesticide applicators are prohibited from making an application of any pesticide while it is raining. This prohibition shall not apply to a drizzle of rain so light as to not cause puddling or run-off water from the field.

B. Unless further restricted by other regulations or labeling, commercial aerial pesticide applicators, with the

single exception of aerial mosquito pest control applicators, are prohibited from making an application of any pesticide within 100 feet from the edge of the swath to any inhabited structure, including but not limited to inhabited dwellings, hospitals, nursing homes and places of business. No aerial applicator, with the single exception of aerial mosquito pest control applicators, shall apply pesticides within 1000 feet of any school grounds during normal school hours.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 3:3203.

**HISTORICAL NOTE:** Promulgated by the Department of Agriculture and Forestry, Office of Agriculture and Environmental Sciences, LR 18:

A public hearing on these proposed regulations will be held on July 30, 1992 in Baton Rouge, LA, at the Department of Agriculture and Forestry Building, 5825 Florida Boulevard at 9:30 a.m. All interested persons will be afforded an opportunity to submit data, views or arguments, orally or in writing at that hearing. Interested persons may make submissions in writing to Bobby Simoneaux, 5825 Florida Boulevard, Baton Rouge, LA 70806.

Bob Odom  
Commissioner

**Fiscal and Economic Impact Statement  
For Administrative Rules**

**Rule Title: Pesticide Drift LAC 7:XXIII.Chapter 131**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

No costs or savings to state or local governmental groups is anticipated to result from the implementation of the proposed rules.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

No effect on revenue collections of state or local governmental units is anticipated to result from the implementation of the proposed rules.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)**

Costs of approximately \$15 per year to directly affected persons are anticipated to result from the implementation of this rule. Possible economic benefits to these persons cannot be ascertained at this time.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)**

No effect on competition or employment is anticipated.

Richard Allen  
Assistant Commissioner

John R. Rombach  
Legislative Fiscal Officer

**NOTICE OF INTENT**

**Department of Agriculture and Forestry  
Office of Agricultural and Environmental Sciences  
Seed Commission**

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq. and R.S. 3:1433, notice is hereby given that the Department of Agriculture and Forestry, Seed Commission intends to amend LAC 7:XIII.8763, Cottonseed Seed Certification Standards.

**Title 7  
AGRICULTURE AND ANIMALS  
Part XIII. Seeds**

**Chapter 87. Rules and Regulations Pursuant to the Louisiana Seed Law**

**Subchapter C. Requirements for Certification of Specific Crops/Varieties**

**§8763. Cottonseed Seed Certification Standards**

**A. Field Standards**

Factor	Breeder	Foundation	Registered	Certified
Isolation		15 ft.	15 ft.	15 ft.
Other varieties & off-type plants	None	None	1 plant per acre	5 plants per acre
Noxious weeds: Cocklebur	None	5 plants per acre	8 plants per acre	10 plants per acre

\*\*Fields entered for certification must be isolated at least 600 feet from Sea Island cotton, red leaf cotton, or other cottons which vary greatly in plant characteristics from the variety entered for certification, and at least one-half mile from G. barbadense and interspecific hybrids involving G. barbadense.

**B. Handling and Storage Requirements**

1. Ginning. Cottonseed entered in all classes of certification shall be ginned on a thoroughly cleaned, one-variety gin approved by the Department of Agriculture and Forestry prior to ginning seed to be certified. With special permission of the Department of Agriculture and Forestry,

a. cottonseed for all classes of certification may be ginned on thoroughly cleaned, mixed variety gins either with a notarized ginner's agreement provided by the Louisiana Department of Agriculture and Forestry or an inspector of the Louisiana Department of Agriculture and Forestry shall be present if cottonseed for certification is ginned.

b. cottonseed produced for only the certified class may be ginned on a mixed-variety gin if a minimum of three bales are "blown" through the gin prior to catching of the cottonseed to be certified. An inspector of the Louisiana Department of Agriculture and Forestry may be present if cottonseed for certification is ginned under special permission.

\* \* \*

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 3:1433.

**HISTORICAL NOTE:** Promulgated by the Department of Agriculture and Forestry, LR 8:570 (November 1982) amended LR 9:199 (April 1983), LR 10:737 (October 1984), repealed and repromulgated LR 12:825 (December 1986), amended LR 13:156 (March 1987), LR 13:232 (April 1987), LR 18:

Inquiries and comments will be accepted through the close of business on Friday, July 31, 1992. comments should be addressed to: Eric Gates, Director of Seed Program, De-

partment of Agriculture and Forestry, Box 1108, Baton Rouge, LA 70821-1108.

Bob Odom  
Commissioner

**Fiscal and Economic Impact Statement  
For Administrative Rules  
Rule Title: Seed Commission**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)  
No implementation costs or savings to state or local governmental units are anticipated.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)  
No effect on revenue collections of state or local governmental units is anticipated.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)  
Directly affected persons, (cotton farmers), will benefit by increased land usage and increase ease of growing certified cotton. A quantitative estimate of increased revenues is not readily ascertainable at this time.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)  
Certified cotton growers in Louisiana will be more competitive with those of other southern states.

Richard Allen  
Assistant Commissioner

John R. Rombach  
Legislative Fiscal Officer

**NOTICE OF INTENT**

**Department of Civil Service  
Civil Service Commission**

Notice is hereby given that the State Civil Service Commission, under authority conferred by Article X, Section 10(A)(1) of the Constitution of Louisiana, will conduct a public hearing on Wednesday, July 8, 1992, at 8 a.m. in the Hearing Room located on the Second Floor South, DOTD Annex Building, 1201 Capitol Access Road, Baton Rouge, LA, to consider the follow:

PROPOSED AMENDMENTS TO CIVIL SERVICE RULES 12:1-12:11; 1.19: 1.20; 1.36; 1.37; 1.38; 1.40; 2.9(b); 3.1(d); 6.5(c); 8.9(c); 8.15(d); 8.18(d) and (e); 8.27(d)1. and 3.; 9.1(e); 9.2(c); 10.18; 10.21(b); 10.22(B); 11.10(a) and (d); 11.18; 11.27(e); 13:38(a); 15.9(c)5; 15.10 and 17.24.

PROPOSED ADOPTION OF CIVIL SERVICE RULES 1.5.2.01; 1.14.1.1 and 1.33.02.

SYNOPSIS OF THE PROPOSAL

The proposal contains a complete revision to Chapter 12 of the Civil Service rules which governs adverse actions, investigations and resignations. The major substantive changes include:

1. allowing an appointing authority to ratify an action taken by another;
2. eliminating reprimands and reassignments as appealable disciplinary actions;
3. limiting disciplinary suspensions to 30 days;
4. authorizing verbal suspensions in emergency situations;
5. authorizing a suspension pending the outcome of criminal proceedings;
6. expanding the grounds for no-fault removals;
7. requiring pre-removals/pre-discipline procedures;
8. prohibiting placement of non-appealable papers in publicly accessible personnel records;
9. providing for a suspension with pay pending investigation
10. providing for adverse consequences to attach to only those resignations that are to avoid dismissal.

The remainder of the proposal contains technical amendments that are needed to implement the revisions to Chapter 12.

Complete copies of the proposed rules may be obtained from the office of the State Register, 1051 North Third Street, Baton Rouge, LA 70804 and Civil Service Appeals Section, located on the Second Floor South, DOTD Annex Building, 1201 Capitol Access Road, Baton Rouge, LA.

Interested parties may direct written comments, suggestions or inquiries to Laura D. Holmes, Chief Referee, Department of State Civil Service, Appeals Section, Box 94111, Baton Rouge, LA 70804-9111, any time prior to the public hearing on July 8, 1992; additionally, interested parties may express their views at the public hearing on July 8, 1992.

Herbert L. Sumrall  
Director

**NOTICE OF INTENT**

**Department of Economic Development  
Office of Financial Institutions  
Commissioner of Finance**

In accordance with the Administrative Procedure Act (R.S. 49:950 et seq.) and pursuant to the authority granted to the Commissioner of Financial Institutions in his capacity as Commissioner of Securities by R.S. 51:709(15) and 710(D), notice is hereby given that the commissioner intends to adopt a rule under Chapter 9 defining oil and gas auction exemptions from the registration requirements of the Louisiana Securities Law.

The proposed rule creates a safe-harbor exemption for oil and gas auctions operated by properly registered dealers.

**Chapter 9. Oil and Gas Auction Exemption**

**§901. Safe-Harbor Exemption**

A. Mineral Interest Definition for purposes of this rule only, "mineral interest" an interest in or under an oil, gas, or mining lease, fee, or title, including real property from which the minerals have not been coveted, or contracts relating thereto. The offer and sale of a mineral interest, at an auction, by the seller itself, or a registered dealer or agent acting on behalf of the seller, is exempt from the securities registration requirements of R.S. 51:705, if all of the following conditions are met:

B. Auctioneer. The auctioneer or auction company through which the mineral interest is offered or sold must be licensed as a Dealer by the Louisiana Commissioner of Securities in accordance with R.S. 51:703.

C. Seller

1. Intent. The seller did not acquire the mineral interest with a view to resale, unless the seller was forced to acquire the mineral interest in a package in order to obtain other properties in the package.

2. No Fractionalization of Mineral Interest

a. The seller has the full right and authority to sell the mineral interest and is selling 100 percent of its mineral interest, except that retention by the seller of a royalty or overriding royalty or the horizontal severance of the property is permissible as indicated in (b) below.

b. The seller must not be creating undivided interests out of its mineral interest for the purpose of resale. Where all the seller owns is a partial interest (such as a royalty, overriding royalty, or undivided fractional working interest), this requirement is met if the seller sells all of that interest. However, the seller shall not be considered to be fractionalizing its interest in sales where the seller retains only a royalty or overriding royalty, or where the seller horizontally servers the property by retaining all of its existing rights in certain formations or depths under the whole property.

D. The mineral interest offered or sold pursuant to this rule does not constitute an investment contract.

E. Purchaser

1. Knowledge and Experience. The purchaser or its representative is engaged in the business of exploring for or producing oil or gas or other minerals as an ongoing business. By reason of this knowledge and experience, the purchaser or its representative has evaluated the merits and risks of the mineral interest to be purchased at auction and has formed an opinion based solely upon his knowledge and experience and not upon any statement, representation or printed material provided or made by auctioneer or seller. If a purchaser representative is used, such purchaser representative:

- a. has no business relationship with the seller;
  - b. represents only the purchaser and not the seller;
- and
- c. is compensated only by the purchaser.

2. Financial Ability. The purchaser has sufficient financial resources in order to bear the risk of loss attendant to the purchase of the property.

3. In all sales to purchasers in this state, the seller or any person acting on its behalf shall have reasonable grounds to believe and after making reasonable inquiry shall believe that the purchaser satisfies the requirements set forth

in (A) and (B) of this paragraph. This requirement could be met by obtaining a document signed by the purchaser to the effect that the purchaser meets these conditions.

F. Auction. For purposes of this rule only, "auction" shall mean the sale of the seller's mineral interest by public outcry.

G. The use of statistical information in trade journals and data bases as well as auction pamphlets concerning the mineral interests to be offered pursuant to this rule is not prohibited.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:710(D) and 709(15).

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Financial Institutions, Commissioner of Securities, LR 18:

Interested parties may request copies of the proposed rule submit written comments or make written inquiries concerning the proposed rule until 4:30 p.m., July 20, 1992, at the following address: Harry C. Stansbury, Deputy Commissioner of Securities, 1450 Poydras Street, Suite 420, New Orleans, LA 70112-6010. He is the person responsible for responding to inquiries concerning the proposed rule.

Harry C. Stansbury  
Deputy Commissioner of Securities

**Fiscal and Economic Impact Statement  
For Administrative Rules  
Rule Title: Oil and Gas Auction Exemption**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

No implementation costs are involved.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

There are no filing fees associated with this proposed safe-harbor exemption. Hence, there will be no effect on revenue collections for the state.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)**

The estimated costs to directly affected persons will remain the same by the implementation of this rule, but could result in a slight economic benefit to such persons in the future if they sold oil and gas securities pursuant to the auction process and would then have to register the securities if an exemption were not available.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)**

There will be no impact on competition or employment in the public or private sector.

Larry L. Murray  
Commissioner

John R. Rombach  
Legislative Fiscal Officer

**NOTICE OF INTENT**

**Department of Economic Development  
Office of Financial Institutions  
Commissioner of Securities**

In accordance with the Administrative Procedure Act (R.S. 49:950 et seq.) and pursuant to the authority granted to the Commissioner of Financial Institutions in his capacity as Commissioner of Securities by R.S. 51:708(b) and 710(D), notice is hereby given that the commissioner intends to adopt a rule under Chapter 11 defining stock exchange exemptions from the registration requirements of the Louisiana Securities Law.

The proposed rule creates an exemption from the registration requirements under the Louisiana Securities Law for securities listed on the Chicago Board Options Exchange, Inc.

**Title 64  
SECURITIES**

**Chapter 11. Stock Exchanges**

**§1101. Stock Exchange Exemption**

Securities listed on the Chicago Board Options Exchange, Inc., shall be exempt from the securities registration requirements of R.S. 51:705.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:710(D) and 708(b).

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Financial Institutions, Commissioner of Securities, LR 18:

Interested parties may request copies of the proposed rule, submit written comments or make written inquiries concerning the proposed rule until 4:30 p.m., July 20, 1992, at the following address: Harry C. Stansbury, Deputy Commissioner of Securities, 1450 Poydras Street, Suite 420, New Orleans, LA 70112-6010. He is the person responsible for responding to inquiries concerning the proposed rule.

Harry C. Stansbury  
Deputy Commissioner of Securities

**Fiscal and Economic Impact Statement  
For Administrative Rules  
Rule Title: Stock Exchange Exemption**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

No implementation costs are involved.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

There are no filing fees associated with this proposed safe-harbor exemption. Hence, there will be no effect on revenue collections for the state.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)**

The estimated costs to directly affected persons will remain the same by the implementation of this rule, but could result in a slight economic benefit to such persons in the future were they to change the types of securities being offered and would then have to register the securities if an exemption were not available.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will be no impact on competition or employment in the public or private sector.

Larry L. Murray  
Commissioner

John R. Rombach  
Legislative Fiscal Officer

**NOTICE OF INTENT**

**Board of Elementary and Secondary Education**

Amendments to State Plan for Adult Education

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education approved the proposed amendments to the state plan for adult education as recommended by the Adult Education Advisory Council. These amendments were also adopted as an emergency rule, effective March 26, 1992 and printed in full in the April, 1992 issue of the *Louisiana Register*.

Interested persons may comment on the proposed rule until 4:30 p.m., August 10, 1992 at the following address: Eileen Bickham, Board of Elementary and Secondary Education, Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Carole Wallin  
Executive Director

**Fiscal and Economic Impact Statement  
For Administrative Rules**

**Rule Title: La. State Plan for Adult Education 1989-1993**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

A total of \$4,759,387 in state funds was appropriated during the current year to implement the adult education program in Louisiana. A total of \$4,200,669 was awarded to the Department of Education by the U.S. Office of Education to implement the program for the current year.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The Department of Education is expected to receive approximately \$4.5 million in federal funds annually.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)

A total of 43,000 students will be served annually through the statewide adult education program. In FY 90-91, each student was provided services at an average cost of \$178.31. A total of 829 full-time and part-time personnel are employed in the program.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The adult education program provides opportunities for undereducated adults to continue their education through activities at local education agencies and at public and private non-profit agencies. Those students who receive a high school equivalency diploma become more

employable, productive, and responsible citizens. There is no estimated effect on competition.

John Guilbeau  
Deputy Superintendent  
for Management and Finance

David W. Hood  
Senior Fiscal Analyst

**NOTICE OF INTENT**

**Board of Elementary and Secondary Education**

ESEA Chapter I FY-93 Migrant Education State Plan

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education approved the ESEA Chapter I FY-93 Migrant Education State Plan.

The Migrant Education FY-93 State Plan is a description of the Louisiana program for delivery of instructional and support services to children of migratory agricultural and fishing workers. It includes definitions of eligibility, scheme for identification and recruitment, instructional objectives, criteria for personnel, data requirements, parental involvement requirements, provisions for health, nutrition, and other support services, and plan for evaluation and reporting.

Copies of this Plan may be seen at the Office of the Louisiana Register, Fifth Floor of the Capitol Annex Building, State Department of Education, Bureau of Migrant Education, or the office of the Board of Elementary and Secondary Education located in the Education Building in Baton Rouge, LA.

Interested persons may comment on the proposed rule until 4:30 p.m., August 10, 1992 at the following address: Eileen Bickham, Board of Elementary and Secondary Education, Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Carole Wallin  
Executive Director

**Fiscal and Economic Impact Statement  
For Administrative Rules**

**Rule Title: FY-93 Migrant State Plan**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

Participating Local Education Agencies (LEAs) and Community Action Agencies (CAAs) will expend approximately \$2,675,610 and the Department of Education (LDE) will expend approximately \$256,354 to implement the provisions of the FY-93 State Plan for Migrant Education.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

Participating LEAs and CAAs will collect approximately \$2,675,610 and the LDE will collect approximately \$256,354 in federal funds.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)

Approximately 6,500 children living in Louisiana for at least a portion of the school year will receive instructional or supportive services through the Migrant Education Programs. A decrease is expected with a FY-93 allocation of \$2.9 million. The FY-92 allocation was \$3 million.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)**

The Migrant Education program creates full-time instructional positions for more than 235 persons, most of whom are paraprofessional teaching aides. Approximately 50 additional full-time positions are funded for recruitment personnel, records personnel, and state office staff. A number of part-time or share-timed positions are also funded with these monies. The program has little if any effect on competition.

John J. Guilbeau                      David W. Hood  
Acting Deputy Superintendent      Senior Fiscal Analyst

**Louisiana Adoption Information**

- Contract Period                      - Seven years (definite contract)
- Invitation to Bid                    - July 1
- Bid Due to State                    - August 1
- First Hearing                         - September (first Wednesday)
- Books to Committee                - September 1
- State Review Period               - September 1 - December 1
- Second Hearing                      - December (first week)
- BESE Approval                      - December
- Textbook Caravan                  - January 1 - February 1
- Add, Substitute or Cancel       - February 1 - March 1
- Local Adoption                      - February 1 - June 1

Interested persons may comment on the proposed rule until 4:30 p.m., August 10, 1992 at the following address: Eileen Bickham, Board of Elementary and Secondary Education, Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Carole Wallin  
Executive Director

**Fiscal and Economic Impact Statement  
For Administrative Rules**

**Rule Title: Seven-Year State Textbook Adoption Cycle**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)  
There will be no implementation costs to state or local governmental units by this proposed rule.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)  
There will be no effect on revenue collections of state or local governmental units by this proposed rule.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)  
Local school systems would not receive any cost or economic benefit by this proposed rule.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)  
There will be no effect on competition and employment by this proposed rule.

John Guilbeau                      David W. Hood  
Deputy Superintendent              Senior Fiscal Analyst  
Management and Finance

**NOTICE OF INTENT**

**Board of Elementary and Secondary Education**

**Louisiana Textbook Adoption Cycle**

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education approved the proposed amendment to the Louisiana Textbook Adoption Cycle which changes the Textbook Adoption Cycle from a six-year to a seven-year adoption cycle as noted in the Louisiana Adoption Cycle listed below.

Beginning July 1, 1992 and every year thereafter, the Louisiana Textbook Adoption Cycle will be for a period of seven years with the categories each year as follows:

1991	1992	1993	1994	1995	1996	1997
Social Studies K-12 Special Ed	Language and Composition Literature Spelling Special Ed  Computer Literacy	Reading Special Ed	Science K-12 Health and Physical Education Special Ed  Computer Literacy	Vocational Agriculture Business Education Home Economics Special Ed	Foreign Language Handwriting Music/Fine Arts Special Ed  Computer Literacy	Math K-12 Computer Science Special Ed

\*Special Education materials are adopted each year in the area of the adopting disciplines.



## NOTICE OF INTENT

### Department of Environmental Quality Air Quality and Radiation Protection Air Quality Division

#### Vapor Recovery Systems (AQ61) (LAC 33:III.2132 and 6523)

Under the authority of the Louisiana Environmental Quality Act, R.S. 30:2001, et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950, et seq., the secretary gives notice that rulemaking procedures have been initiated to revise the Air Quality Regulations, by adopting LAC 33:III.2132 and amending LAC:III.6523, (AQ61).

This proposed regulation will require installation of vapor recovery systems at certain motor vehicle fuel dispensing facilities located in parishes of ozone nonattainment designated as moderate or above (East Baton Rouge, West Baton Rouge, Pointe Coupee, Livingston, Ascension, and Iberville). This regulation will also provide for recordkeeping, enforcement, permitting, and fee requirements.

This proposed regulation is to become effective on September 20, 1992, or as soon thereafter as practical upon publication in the *Louisiana Register*.

#### Title 33

### ENVIRONMENTAL QUALITY

#### Part III. Air

#### Chapter 21. Control of Emission of Organic Compounds

#### §2132. Stage II Vapor Recovery Systems for Control of Vehicle Refuelling Emissions at Gasoline Dispensing Facilities

##### A. Definitions

Terms used in this Section are defined in LAC 33:III.111 of these regulations with the exception of those terms specifically defined below as follows:

*Independent Small Business Marketer of Gasoline (ISBM)*—a person engaged in the marketing of gasoline who would be required to pay for procurement and installation of vapor recovery equipment under this Section, unless such person:

1. is a refiner; or
2. controls, is controlled by, or is under common control with, a refiner; or
3. is otherwise directly or indirectly affiliated with a refiner or with a person who controls, is controlled by, or is under a common control with, a refiner (unless the sole affiliation referred to herein is by means of a supply contract or an agreement or contract to use a trademark, trade name, service mark, or other identifying symbol or name owned by such refiner or any such person); or
4. receives less than 50 percent of his annual income from refining or marketing of gasoline. The term "refiner" shall not include any refiner whose total refinery capacity (including the refinery capacity of any person who controls, is controlled by, or is under common control with, such refiner) does not exceed 65,000 barrels per day. "Control" of a corporation means ownership of more than 50 percent of its stock.

*Major System Modification* (for the purposes of LAC 33:III.2132)—replacing, repairing or upgrading 75 percent or more of the facility's Stage II equipment.

*Motor Vehicle Fuel*—any petroleum distillate having a Reid vapor pressure of more than four pounds per square inch as determined by ASTM Method D323 and which is used primarily to power motor vehicles. This definition includes, but is not limited to, gasoline and mixtures of simple alcohols and gasoline.

*Motor Vehicle Fuel Dispensing Facility (hereafter called "facility or facilities")*—a facility consisting of one or more stationary gasoline storage tanks, with an individual capacity of 250 gallons or more, together with dispensing devices, used to fill motor vehicle fuel tanks, or portable containers.

##### B. Regulated Sector

1. The provisions of this regulation shall apply in all parishes designated as moderate or above for ozone nonattainment. These are Ascension, East Baton Rouge, West Baton Rouge, Iberville, Pointe Coupee and Livingston Parishes.

2. New facilities constructed after promulgation of this regulation shall comply with the requirements of this regulation upon start-up of the facility.

3. All facilities existing when these rules are promulgated that dispense greater than 10,000 gallons of gasoline per month (50,000 gallons of gasoline per month in the case of an independent small business marketer) are subject to this regulation and shall demonstrate to the administrative authority their average monthly volume of motor vehicle fuel dispensed. This information shall be submitted to the administrative authority no later than 90 days after promulgation of this regulation. The criteria that mandate the installation of gasoline vapor recovery equipment are determined by calculating the average volume of motor vehicle fuel dispensed per month, without facility shutdown, for the most recent two year period, and shall be calculated monthly. If data for two years is not available, this calculation shall be based on the monthly average for the most recent 12 calendar months, including only those months for which the facility was operating.

4. Facilities subject to the provisions of this Section shall demonstrate compliance according to the following schedule:

- a. facilities for which construction commenced after November 15, 1990 must comply with these requirements within six months after promulgation of this regulation;
- b. facilities which dispense 100,000 gallons or more of gasoline per month must comply within one year after promulgation of this regulation;
- c. any facility described in both Subsection B.4.a and b of this Section shall meet the requirements of Subsection B.4.a of this Section;
- d. all other facilities must comply within two years after promulgation of this regulation;
- e. existing facilities previously exempted from, but which become subject to, the requirements of this regulation shall comply with the requirements of this regulation within one year from the date on which the facility becomes subject.

5. No owner or operator as described in Subsection B.1 and 3 of this Section shall cause or allow the dispensing of motor vehicle fuel at any time unless all fuel dispensing operations are equipped with and utilize a certified vapor recovery system which is properly installed and operated. The vapor recovery equipment utilized shall be certified by the California Air Resources Board (CARB) to attain a minimum of 95 percent gasoline vapor control efficiency. This certified equipment shall have coaxial hoses and shall not contain

remote check valves. In addition, only CARB approved aftermarket parts and CARB approved rebuilt parts shall be used for installation or replacement use.

6. The regulated facility shall submit the following application information to the administrative authority prior to installation of the Stage II Vapor Recovery System:

a. plans for installation of the Stage II Vapor Recovery System, including approved equipment (per Subsection B.5 of this Section) and piping, together with the proposed construction schedule;

b. plans to test for proper operation of the Stage II equipment every five years or upon major system modification;

c. information in the application for approval form shall include:

- i. the facility name and address;
- ii. signature of the owner or operator;
- iii. the CARB executive order number of the vapor recovery system to be utilized; and
- iv. any other pertinent information.

7. Once a facility becomes subject to this regulation, that facility shall continue to be subject to this regulation even if throughput drops back below the throughput exemption level.

8. Upon request by the Department of Environmental Quality, the owner or operator of a facility that claims to be exempt from the requirements of this Section shall submit supporting records to the department within 30 calendar days from the date of the request. The Department of Environmental Quality shall make a final determination regarding the exemption status of a facility.

#### C. Training and Public Education

1. At least one owner/operator/employee from each facility shall receive training in the categories listed in this Section. For each person who receives training, a certificate or other proof of training shall be required. The required training shall be completed prior to the initiation of operation of a facility's Stage II Vapor Recovery equipment. Training shall include the following areas:

a. purposes and effects of the Stage II vapor control program;

b. equipment operation and function specific to the facility's system;

c. maintenance schedules and requirements for the facility's equipment;

d. equipment warranties; and

e. equipment manufacturer contacts (names, addresses and telephone numbers) for parts and service.

2. The administrative authority shall accept equipment manufacturers' seminars as a form of training with proof of attendance or completion after evaluation. Other types of training may be accepted upon approval by the Department of Environmental Quality.

#### D. Testing, Labeling and Recordkeeping

1. The facility owner/operator shall maintain the following records, on the facility premises for at least two years, and present them to an authorized representative of the Department of Environmental Quality upon request:

a. application approval records;

b. station operating license;

c. system installation and testing results;

d. stage II maintenance records. These maintenance records shall include, but not be limited to, daily visual

inspections for malfunctions. Such malfunctions shall include:

i. absence or disconnection of any component required to be used on a certified system;

ii. crimped or flattened vapor hose such that the vapor passage is blocked or restricted;

iii. torn nozzle boots;

iv. damaged faceplates or facecones;

v. malfunction in the nozzle shutoff mechanism; and

vi. inoperative vacuum producing device;

e. inspection records;

f. compliance records;

g. training certification; and

h. gasoline throughput records. These shall include, but not be limited to, all monthly gasoline delivery receipts and sales information.

2. A pressure decay/leak test (San Diego Test Procedure TP-92-1) shall be conducted and successfully passed, initially, after installation of the vapor recovery system and prior to initiating operation of the vapor recovery system, and once every five years thereafter.

3. A dynamic pressure drop test (San Francisco Bay Area Dynamic Back Pressure Test Procedure ST-27) shall be conducted and successfully passed, initially, after installation of the vapor recovery system and prior to initiating operation of the vapor recovery system, and once every year thereafter.

4. A liquid blockage test (San Diego Test Procedure TP-91-2) shall be conducted and successfully passed, initially, after installation of the vapor recovery system and prior to initiating operation of the vapor recovery system, and once every five years thereafter.

5. The test methods used are contained in the Environmental Protection Agency document entitled "Technical Guidance Stage II Vapor Recovery Systems for Control of Vehicle Refueling Emissions at Gasoline Dispensing Facilities, EPA-450-3-91-022b."

6. The facility owner/operator shall post operating instructions conspicuously on the front of each gasoline dispensing pump using a Stage II Vapor Recovery System. The instructions shall include:

a. a clear description of how to correctly dispense gasoline with the vapor recovery nozzles utilized at the site;

b. a warning that continued attempts at dispensing gasoline after the system indicates that the vehicle tank is full ("topping off") may result in spillage or recirculation of gasoline; and

c. a telephone number established by the department for use by the public to report comments, questions or problems experienced with the system.

7. Testing may be conducted by the Department of Environmental Quality or by an installation company or testing business approved by the department to conduct such tests. In the case where a party other than the department will be conducting the required testing, the owner or operator of the facility shall notify the department at least five calendar days in advance of the testing. Within 30 days after installation or major system modification of a vapor recovery system, the owner or operator of the facility shall submit to the department the date of completion of the installation or major system modification of a vapor recovery system and the results of all functional testing requirements.

8. Any equipment which has been tagged "out of order" by the department shall not be used until it has been repaired or replaced.

9. Any equipment having a defect, as determined through daily visual inspections or other means, shall be tagged "out of order" by the facility owner or operator and shall not be used until it has been repaired or replaced.

**E. Enforcement**

1. Enforcement of these regulations, authorized under R.S. 30:2054, shall include, but not be limited to, the following penalties:

- a. notices of violation;
- b. warnings;
- c. cease and desist orders;
- d. suspension of license or permit to operate;
- e. revocation of license or permit to operate;
- f. monetary fines; and
- g. "red tagging" equipment to prevent its operation.

**F. Fees**

The fees are defined in LAC 33:III.6523.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 30:2054.

**HISTORICAL NOTE:** Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 18:

**Chapter 65. Rules and Regulations for the Fee System of the Air Quality Control Programs**  
**§6523. Fee Schedule Listing**

\* \* \*

FEE NUMBER	FEE DESCRIPTION	AMOUNT
2400	An application approval fee for Stage II Vapor Recovery	\$100.00
	An annual facility inspection fee for Stage II Vapor Recovery	\$150.00

\* \* \*

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 30:2054.

**HISTORICAL NOTE:** Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 13:741 (December 1987), amended LR 14:613 (September 1988), LR 15:735 (September 1989), LR 17:1205 (December 1991), repromulgated LR 18:31 (January 1992), amended LR 18:

A public hearing will be held on July 27, 1992, at 1:30 p.m. in the Maynard Ketcham Building, Room 341 (Recital Room), 7290 Bluebonnet Boulevard, Baton Rouge, LA. Interested persons are invited to attend and submit oral comments on the proposed amendments.

All interested persons are invited to submit written comments on the proposed regulations. Such comments should be submitted no later than Tuesday, July 28, at 4:30 p.m., to David Hughes, Enforcement and Regulatory Compliance Division, Box 82282, Baton Rouge, LA 70884-2282 or to 7290 Bluebonnet Boulevard, 4th Floor, Baton Rouge, LA 70810. Commentors should reference this proposed regulation by the log number AQ61.

James B. Thompson, III  
 Assistant Secretary

**Fiscal and Economic Impact Statement**  
**For Administrative Rules**  
**Rule Title: Stage II Vapor Recovery**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

The stage II Vapor Recovery program will result in a state cost of \$201,550 in FY92-93, \$170,427 in FY93-94 and \$164,980 in FY94-95. These costs represent personnel needed to certify the compliance of and inspect annually approximately 410 facilities in the six parish (Pointe Coupee, East Baton Rouge, Livingston, West Baton Rouge, Iberville, Ascension parishes) non-attainment areas.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

Program Fees will increase state revenue by \$1,000 in FY92-93, \$7,600 in FY93-94 and \$45,550 in FY94-95. Funding shortfalls will be offset by utilization of existing Air Quality Fees. No local Government impact.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS ON NON-GOVERNMENTAL GROUPS (Summary)**

Regulated facilities will incur an average capital cost of \$20,318. This capital cost reflects a range of \$7,320-\$36,710 depending on facility size. When all equipment costs are capitalized, the average annual cost is \$3,686. This cost is expected to be recovered by increasing the retail cost of gasoline by \$0.005.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)**

Little, if any, impact on competition is expected. Regulated facilities will not be required to hire additional employees to comply. A small increase in employment may result from increased contractor activity.

Gus Von Bodungen  
 Asst. Secretary

David W. Hood  
 Senior Fiscal Analyst

**NOTICE OF INTENT**

**Office of the Governor**  
**Commission on Law Enforcement**  
**and Administration of Criminal Justice**  
**Sentencing Commission**

The Office of the Governor, Commission on Law Enforcement and Administration of Criminal Justice, Louisiana Sentencing Commission, gives notice that rulemaking procedures have been initiated to amend the Felony Sentencing Guidelines, LAC Title 22:IX. Subpart 1, under the provisions of the Administrative Procedure Act, R.S. 49:950 et seq. The text of this proposed rule can be viewed in its entirety in the emergency rule section of the *Louisiana Register* of June 20, 1992.

The adoption of the amendments described here is necessary to eliminate technical problems experienced by the courts and the Office of Probation and Parole in implementing the Felony Sentencing Guidelines as of January 1, 1992 and to make such other adjustments as are necessary to ensure the timely and expeditious sentencing of offenders

in a fair and equitable manner under the sentencing guidelines without delay.

Interested persons may submit written comments on the proposed amendments to the Felony Sentencing Guidelines until 5 p.m., July 17, 1992, to Carle L. Jackson, Director, Louisiana Sentencing Commission, 1885 Wooddale Blvd., Room 708, Baton Rouge, LA 70806.

Michael A. Ranatza  
Executive Director

**Fiscal and Economic Impact Statement  
For Administrative Rules  
Rule Title: Felony Sentencing Guidelines**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

The proposed amendments to the Felony Sentencing Guidelines will have no implementation costs (savings) to state or local governmental units, other than the cost of \$3072 to the Sentencing Commission for printing and mailing the amendments as updates to the current text of the Felony Sentencing Guidelines.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

The proposed amendments to the Felony Sentencing Guidelines will have no effect on revenue collections of state or local governmental units.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)**

The proposed amendments to the Felony Sentencing Guidelines will have no effect on cost and/or economic benefits to directly affected persons beyond the penalties imposed by the court in accordance with the sentencing guidelines, or to non-governmental groups.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)**

The proposed amendments to the Felony Sentencing Guidelines will have no effect on competition and employment.

Michael A. Ranatza  
Executive Director

David W. Hood  
Senior Fiscal Analyst

**NOTICE OF INTENT**

**Office of the Governor  
Louisiana Property Assistance Agency**

Notice is hereby given that the Office of the Governor, Division of Administration, Louisiana Property Assistance Agency, under authority of R.S. 39:321 advertises its intent to amend the existing State Property Control Regulations LAC 34:VIII.307. This Notice of Intent replaces the Notice of Intent which was published in the April, 1992 *Louisiana Register*, pages 430-431.

**Title 34  
GOVERNMENT CONTRACTS,  
PROCUREMENT AND PROPERTY CONTROL**

**Part VII. Property Control**

**Chapter 3. State Property Inventory Regulations**

**§307. Items of Property to be Inventoried**

A. All items of moveable property having an "original" acquisition cost, when first purchased by the state of Louisiana, of \$250 or more, and all gifts and other property having a fair market value of \$250 or more, with the exception of items specifically excluded in §307.F and §307.G, must be placed on inventory. The term "movable" distinguishes this type of equipment from equipment attached as a permanent part of a building or structure. The term "property" distinguishes this type of equipment from "supplies" with supplies being consumable through normal use in no more than one year's time. All acquisitions of qualified items must be tagged with a uniform state of Louisiana identification tag approved by the commissioner of administration and all pertinent inventory information must be forwarded to the Louisiana property assistance agency director or his designee within 30 days after receipt of these items.

\*\*\*

Interested persons may submit written comments on the proposed revision to Phillip Collins, Manager, Planning/Analysis Section, Louisiana Property Assistance Agency, Box 94095, Baton Rouge, LA 70804-9095. Written comments will be received until 5 p.m. August 20, 1992.

Louis W. Amedee  
Director

**Fiscal and Economic Impact Statement  
For Administrative Rules  
Rule Title: Title 34 - Government Contracts,  
Procurement and Property Control**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

There will be no implementation costs (savings) to state or local governmental units.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

There will be no effect on revenue collections of state or local governmental units.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)**

There will be no estimated costs and/or economic benefits to directly affected persons or non-governmental groups.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)**

There will be no effect on competition and employment.

Louis W. Amedee  
Director

John R. Rombach  
Legislative Fiscal Officer

**NOTICE OF INTENT**

**Department of Health and Hospitals  
Board of Examiners in Dietetics and Nutrition**

The Louisiana Board of Examiners in dietetics and Nutrition in accordance with LRS 37:3085.C. intends to amend Section 103 (B) of the board's existing rules and regulations to include the Experience Component Guidelines for Non-RD Route to License as a Dietitian/Nutritionist in Louisiana as follows:

**Title 46**

**PROFESSIONAL AND OCCUPATIONAL STANDARDS  
Part LXIX. Registered dietitians**

**Chapter 1. Dietitians/Nutritionist**

**§103. Qualifications for Licensure**

- A. ...
- B. Professional Experience

1. An applicant for licensure shall submit to the board evidence of having successfully completed a planned continuous supervised practice component in dietetic practice of not less than 900 hours under the supervision of a registered dietitian or a licensed dietitian/nutritionist. The experience must be completed in the United States or its territories. Supervised dietetic practice approved by the American Dietetic Association will be accepted in lieu of the board approved plan.

2. A board pre-approved planned program of professional experience may constitute that experience as defined in this section. The following Experience Component Guidelines for Non-RD Route to Licensure as a Dietitian/Nutritionist in Louisiana must be followed.

The board voted unanimously at the April 3, 1992 meeting to promulgate this amendment in order to upgrade the experience requirement and to aid Provisionally Licensed Dietitian/Nutritionists who choose the Non-RD route in passing the board's examination.

Copies of the Experience Component Guidelines for Non-RD Route to Licensure as a Dietitian/Nutritionist in Louisiana can be obtained from the Office of the State Register, 1051 North Third, Room 512, Baton Rouge, LA 70804 and also from the Board of Examiners in Dietetics and Nutrition at the address listed below.

Interested persons should address their questions and concerns to Patricia A. Fitzpatrick, LDN, Chairperson of the Board at Box 41402, Baton Rouge, LA 70835.

Patricia A. Fitzpatrick, LDN  
Chairperson

**Fiscal and Economic Impact Statement  
For Administrative Rules**

**Rule Title: Experience Component Guidelines for Non-RD Route to Licensure as a Dietitian/Nutritionist in LA**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

The costs involved in implementing the Experience Component Guidelines for Non-RD Route to Licensure as a Dietitian/Nutritionist in Louisiana is approximately \$2,516 for the fiscal year 1991-92 and \$31,250 for the fiscal year 1992-93. This includes the costs of travel expenses for board members to develop the plan, the printing costs for copies to distribute the rule to board

members, professional organizations and licensees, postage for mailing copies, clerical staff for typing, review by legal counsel and expenses for holding an open meeting.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

There will be no effect on revenue collections associated with the implementation of the Experience Component Guidelines for Non-RD Route to Licensure as a Dietitian/Nutritionist in Louisiana.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)**

The implementation of the experience Component Guidelines for Non-RD Route to Licensure as a Dietitian/Nutritionist in Louisiana will aid those individuals applying for Provisional Dietitian/Nutritionist License and who choose the Non-RD route, in passing the Registered Dietitian Examination administered by the Commission on Dietetics.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)**

By upgrading the requirements for the professional experience for individuals applying for a Provisional License as a Dietitian/Nutritionist who choose the Non-RD route, these licensees should be better prepared to pass the examination approved by the Louisiana Board of Examiners in Dietetics and Nutrition and administered by the Commission on Dietetic Registration.

Suzanne L. Pevey  
Executive Secretary

David W. Hood  
Senior Fiscal Analyst

**NOTICE OF INTENT**

**Department of Health and Hospitals  
Board of Examiners of Psychologists**

**Definition of Psychological Testing, LAC 46:LXIII.1702**

The Board of Examiners of Psychologists hereby gives notice in accordance with R.S. 49:950 et seq. that it intends to adopt the following:

**Title 46**

**PROFESSIONAL AND OCCUPATIONAL STANDARDS  
Part LXIII. Psychologists**

**Chapter 17. Specialty Titles**

**§1702. Definition of Psychological Testing, Evaluation or Assessment**

A. As contained in R.S. 37:2352(5), the practice of psychology includes, but is not limited to, psychological testing and evaluation or assessment of personal characteristics such as intelligence, personality, abilities, interests, aptitudes, and neuropsychological functioning. The Louisiana State Board of Examiners of Psychologists finds it necessary to formally define psychological testing in order to protect the public from the inappropriate use of psychological tests by unlicensed individuals.

B. Psychological testing, evaluation or assessment, (hereinafter referred to as psychological testing) is defined as the use of one or more standardized measurement

instruments, devices, or procedures to observe or record human behavior, and which require the application of normative data for interpretation or classification. For the purpose of this definition, psychological testing is restricted to those instruments which are used in the diagnosis and treatment of mental and emotional disorders and disabilities, alcohol and substance abuse, psychological aspects of physical illness, accident, injury or disability, psychoeducational assessment, and neuropsychological behavioral impairment. In addition, psychological testing refers to all testing instruments which include the words: "intellectual," "neuropsychological," "personality," or "emotional" in their title.

C. Psychological testing is clearly inclusive of the following three areas:

1. *Intellectual* — which involves those normative-based instruments used to measure certain cognitive functions of individuals.

2. *Personality and Emotional* — which involves those normative-based instruments used to measure both trait and state personality and emotional characteristics and values.

3. *Neuropsychological* — which involves those normative-based instruments used to make behavioral inferences about human brain function. Aspects of human behavior which are measured include, but are not limited to, sensorimotor functioning, attention and concentration skills, memory functioning, language function, concrete and abstract problem solving, and measures of cognitive flexibility and creativity.

D. Psychologists also administer educational or achievement tests, as well as tests of abilities, interests, or aptitudes. However, these tests are not entirely within the domain of the profession of psychology alone.

E. The administration and interpretation of psychological tests within the independent practice of psychology assumes formal doctoral level academic training in psychology with demonstrated competence in statistics, sampling theory, tests and measurement, individual differences, personality theory. In addition, the administration and interpretation of psychological tests for clinical purposes assumes formal doctoral level academic learning in the areas of abnormal psychology and psychotherapy. Such doctoral training must include formal practicum supervision and internship training, when appropriate, involving the use of these instruments with different client/patient populations. Finally, psychological testing may only be administered and interpreted by a person duly licensed as a psychologist by this Board under R.S. 37:51 et seq. or by a person under the direct supervision of a licensed psychologist.

Interested persons may submit written comments within 20 days of the publication of this notice to: Brenda Rockett, 11852 Bricksome Avenue, Suite B, Baton Rouge, LA 70816.

F. William Black  
Ph.D, Chairman

**Fiscal and Economic Impact Statement  
For Administrative Rules  
Rule Title: Definition of Psychological Testing**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

No additional costs or savings involved in defining psychological testing, evaluation or assessment.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

No effect on revenue collections of state or local governmental units will result from the adoption of the definition of psychological testing, evaluation or assessment.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)**

No additional costs or economic benefits to directly affected persons or non-governmental groups will result with the adoption of the definition of psychological testing, evaluation or assessment.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)**

There is no anticipated effect on competition and employment as a result of the definition of psychological testing, evaluation or assessment. This rule clarifies a portion of the practice of psychology. It does not change what should already be in practice.

F. William Black  
Ph.D, Chairman

David W. Hood  
Senior Fiscal Analyst

**NOTICE OF INTENT**

**Department of Health and Hospitals  
Board of Physical Therapy Examiners**

Notice is hereby given, in accordance with R.S. 49:950 et seq., that the Louisiana State Board of Physical Therapy Examiners (Board), pursuant to the authority vested in the board by R.S. 2401.2A(3) and the provisions of the Administrative Procedure Act, intends to amend the proposed rules as set forth below.

**Title 46  
PROFESSIONAL AND OCCUPATIONAL STANDARDS  
Part LIV. Louisiana State Board of  
Physical Therapy Examiners  
Subpart 1. Licensing and Certification**

**Chapter 1. Physical Therapists  
Subchapter C. Graduates of Foreign Physical Therapy  
School**

**§115. Qualifications for License**

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

\* \* \*

4. have achieved passing scores on standardized English proficiency examinations as approved by the board;

5. have indisputable documentation (with notarized English translation) that he has passed licensure or certification requirements of and is in good standing with the physical therapy licensing or certifying agency in his country of education or home country.

\* \* \*

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2401. 2A(3).

HISTORICAL NOTE: Promulgated by the Department of Health and Human Services, Board of Physical Therapy Examiners, LR 13:744 (December 1987), amended LR

**Chapter 5. Fees**

**§501. Fees**

A. The board may collect the following fees:

Examination fee.....	\$225
Reciprocity fee.....	150
Re-Examination fee.....	200
Re-Instatement fee.....	75
Renewal of license fee.....	75
Verification of license fee out-of-state.....	10
Duplicate wall license fee.....	30
Duplicate billfold license fee.....	10

\* \* \*

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 37:2401.2A(3), Act 208 of 1987 and Act 708 of 1990.

**HISTORICAL NOTE:** Promulgated by the Department of Health and Human Resources, Board of Physical Therapy Examiners, LR 13:730 (December 1987), amended by the Department of Health and Hospitals, Board of Physical Therapy Examiners, LR 15:632 (May 1989), LR 17:667 (July 1991), LR 18:

Interested persons may submit written comments on the proposed rules until 4 p.m., July 20, 1992, at the following address: Paul A. Lamothe, Jr., Chairman, Louisiana State Board of Physical Therapy Examiners, 120 Representative Row, Lafayette, LA 70508-3834.

Paul A. Lamothe, Jr. P.T.  
Chairman

**Fiscal and Economic Impact Statement  
For Administrative Rules  
Rule Title: Physical Therapy**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

There will be no effect on these units as a result of the proposed rule changes.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

As a result of rule changes - the Louisiana State Board of Physical Therapy Examiners will collect additional revenue to offset the increase in the cost of the exam to the board and the increased percentage of re-exams occurring over the past several years due to influx of foreign educated physical therapists. The increase in funds will be \$3200 for 92 - 93, and \$6000 for 93 - 94 and 94 - 95.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)**

Foreign educated physical therapists will need to pay more to testing agency who administers the required English proficiency exams. (approximate increase \$30 - \$50) All applicants for exam and re-exam will bear additional cost to offset the increased price of the exam cost charged to the board.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)**

No effect on competition and employment.

Paul A. Lamothe, Jr.  
Chairman

David W. Hood  
Senior Fiscal Analyst

**NOTICE OF INTENT**

**Department of Health and Hospitals  
Board of Practical Nurse Examiners**

Notice is hereby given that the Louisiana State Board of Practical Nurse Examiners, under the authority imposed in R.S. Title 37, Chapter 11. Nurses Part II. Practical Nurses, Section 961-979, plans to amend the Administrative Rules and Minimum Requirements relating to Practical Nursing Education and Licensure to practice in the state of Louisiana, LAC 46:XLVII, Nurses. Subpart 1. Practical Nurses, at its meeting on October 2, 1992.

This proposed rule covers administrative rules and minimum requirements relating to practical nursing education and licensure to practice in the state of Louisiana.

Copies of this proposed rule may be obtained from the Office of State Register, 1051 North Third Street, Baton Rouge, LA 70804 and from State Board of Practical Nurse Examiners, 1440 Canal Street, Suite 1722, New Orleans, LA 70112.

Interested persons may direct inquiries to the State Board of Practical Nurse Examiners, 1440 Canal Street, Suite 1722, New Orleans, LA 70112.

Terry L. De Marcay, RN  
Executive Director

**Fiscal and Economic Impact Statement  
For Administrative Rules**

**Rule Title: Administrative Rules and Minimum Requirements Relating to Practical Nursing Education and Licensure to Practice in the State of Louisiana, Louisiana Administrative Code 46:XLVII, Nurses Subpart 1. Practical Nurses**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

Section 307 - Proposed addition V. would assist in defraying cost of court reporter and attorney's fees which amount to approximately \$8,000 to \$10,000 per year.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

Section 307 - Proposed addition V. would result in an estimated \$6,000 per year to assist in defraying cost of court reporter and attorney's fees.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)**

1. Persons who licenses are disciplined by the board will be required to pay fines not to exceed \$500. (RS Title 37, Chapter II. Nurses Part II Practical Nurses).

2. There will be a cost to the schools offering practical nursing programs with the requirements pertaining to fire-proof storage. (Subchapter 9 Program. Projection Subchapter C. Records 917 Protection).

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)**

There are no anticipated effects on competition and employment.

Terry L. DeMarcay  
Executive Director

David W. Hood  
Senior Fiscal Analyst



## NOTICE OF INTENT

### Department of Health and Hospitals Office of the Secretary Bureau of Health Services Financing

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, proposes to adopt the following rule in the Medical Assistance Program. The rule was previously published as an emergency rule in the *Louisiana Register* on December 20, 1991 (Vol. 17, No. 12).

The Consolidated Omnibus Budget Reconciliation Act gave states the authority to provide case management services under their Title XIX Programs (Medicaid) to certain population groups to reduce barriers to needed health services. Case management is defined as an individualized planning and service coordination under which responsibility for locating, coordinating and monitoring necessary and appropriate health care services for an individual rests with a specific person or organization. Currently Medicaid of Louisiana covers case management services and reimburses such services in accordance with a service unit comprised of 15 minutes for the following specialized groups of eligible individuals: mentally retarded-developmentally disabled, chronically mentally ill, ventilator-assisted individuals, and HIV disabled individuals.

Currently the Bureau of Health Services Financing reimburses enrolled providers of case management services \$9.37 for each 15 minute service unit. After review of required documentation on provider costs, the bureau plans to increase the reimbursement rate to \$13.26 for each service unit effective December 1, 1991. This rule is necessary to ensure that the reimbursement for services remain in compliance with 1902(a) (30) of the Social Security Act which mandates payment of reasonable and adequate rates.

A prospective interim rate of \$13.26 per unit of service for case management services shall be established subject to adjustment based upon audited cost report data. Based upon provider audit findings the prospective interim rate shall be adjusted to assure compliance with federal regulations. This increase applies only to enrolled providers currently reimbursed on a 15 minute service unit basis. The general provisions currently in effect continue to govern reimbursement for these services.

Interested persons may submit written comments to the following address: John Futrell, Office of the Secretary, Bureau of Health Services Financing, Box 91030, Baton Rouge, LA 70821-9030. He is the person responsible for responding to inquiries regarding this proposed rule.

A public hearing on this proposed rule will be held on Tuesday, July 28, 1992, in the auditorium, First Floor, Department of Transportation and Development, 1201 Capitol Access Road, Baton Rouge, LA beginning at 9:30 a.m. All interested persons will be afforded an opportunity to submit data, views or arguments, orally or in writing at said hearing.

J. Christopher Pilley  
Secretary

## Fiscal and Economic Impact Statement For Administrative Rules Rule Title: Reimbursement Rate Increase for Case Management

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)  
Implementation of this rule is projected to increase state expenditures by \$212,620 in SFY 1991-92; \$391,472 in SFY 1992-93; and \$403,217 in 1993-94.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)  
Implementation of this rule is projected to increase federal revenue by \$644,717 in SFY 1991-92; \$1,122,341 in SFY 1992-93; and \$1,156,012 in SFY 1993-94.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)  
Reimbursement rates to providers of case management services identified in the notice of intent will increase by \$857,337 in 1991-92; \$1,513,813 in 1992-93; and \$1,559,229 in 1993-94.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)  
This proposed rule will have no known impact on competition or employment.

John Futrell  
Director

David W. Hood  
Senior Fiscal Analyst

## NOTICE OF INTENT

### Department of Health and Hospitals Office of the Secretary Bureau of Health Services Financing

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, proposes to adopt the following rule in the Medical Assistance Program. The rule was previously published as an emergency rule in the *Louisiana Register* on September 20, 1990 (Vol. 16, No. 9), June 20, 1991 (Vol. 17, No. 6), January 20, 1991 (Vol. 17, No. 1), October 20, 1991 (Vol. 17, No. 10) and January 20, 1992 (Vol. 18, No. 1).

Currently, anesthesia services are provided to Title XIX Medicaid eligible recipients by anesthesiologists and certified registered nurse anesthetists (CRNAs) in accordance with federal and state regulations. These providers are reimbursed on a flat fee for service in accordance with Health Care Procedure Codes (HCPC). For each HCPC a maximum reimbursement is assigned and automated payment is made based on the dollar amount assigned to each HCPC, not to exceed billed charges. When anesthesia services are provided by a CRNA, payment for these services may not duplicate payment to the anesthesiologist. Payment to CRNAs for services provided is limited to the applicable modifier amount of the appropriate procedure code.

Section 6402 of the Omnibus Budget Reconciliation Act of 1989 requires that payments are sufficient to enlist enough providers so that care and services are available under the plan at least to the extent that such care and services

are available to the general population. Based on a review of anesthesiology provider participation in the state's Title XIX program as well as a review of the reimbursement structure for anesthesiology services, the bureau has determined that less than 50 percent of the state's licensed anesthesiologists are actually enrolled in the Medicaid program. In order for the bureau to comply with mandatory federal statute provisions, the reimbursement level for anesthesia services is being increased effective September 1, 1990.

**PROPOSED RULE**

Anesthesiology services shall be reimbursed in accordance with the guidelines set forth herein when provided to eligible Title XIX recipients. With some exceptions, anesthesia services will be reimbursed by the formula in I., which considers Base Units and Time Units and a multiplier Coefficient along with Modifiers which identify the involvement of the anesthesia services provider. The exceptions to the formula to determine reimbursement are certain CPT-4 procedure codes identified in IV., which will continue to be reimbursed on a flat fee basis. In addition, maternity-related anesthesia services will be reimbursed on a flat fee basis in accordance with the provisions set forth in V.

"Personal Medical Direction" as used in this rule is defined in the same manner as "personal medical direction" in the Medicare billing guidelines.

**I. Formula Determining Payment for Anesthesia Services**

Reimbursement to anesthesiologists and certified registered nurse anesthetists will be calculated using the following formula: Base Units + Time Units x Coefficient = Payment. A Base Unit is the relative value assigned to a CPT-4 procedure code. A Time Unit equals the length of the anesthesia service in minutes divided by either 15 or 30. The Coefficient will be either \$8.49 or \$15.

If there are additional minutes remaining when time units are computed, then reimbursement will only be paid for five-minute intervals. When 1 unit = 15 minutes and the coefficient is \$15, reimbursement will be paid at the rate of \$5 for each additional five-minute interval. When 1 unit = 15 minutes and the coefficient is \$8.49, reimbursement will be paid at the rate of \$2.83 for each additional five-minute interval. When 1 unit = 30 minutes and the coefficient is \$15, reimbursement will be paid at the rate of \$2.50 for each additional five-minute interval. Remaining minutes less than five will not be reimbursed.

**II. Certified Registered Nurse Anesthetists (CRNAs) Payment Schedule**

Reimbursement to CRNAs will be paid at two levels differentiated by whether the CRNA is personally medically directed by an anesthesiologist or works independently of an anesthesiologist. The Coefficient will be \$8.49 for a medically directed CRNA (designated by modifier AH) and \$15 for a non-medically directed CRNA (designated by modifier AI). The payment will be calculated as follows:

Modifier AH Base Units + Time Units (1 = 15 minutes) x \$8.49 = Payment

Modifier AI Base Units + Time Units (1 = 15 minutes) x \$15 = Payment

No reimbursement will be paid to a surgeon for the personal medical direction of a CRNA. The anesthesia service will be considered non-medically directed and should be billed as such by the CRNA.

**III. Concurrent Medical Direction by the Anesthesiologist**

When an anesthesiologist and a CRNA are both in-

involved in the performance of a *single* anesthesia service, the service will be considered as performed by the anesthesiologist. No separate payment will be made to the CRNA.

An anesthesiologist may bill for personal medical direction only when two or more anesthesia services are being concurrently performed. When the anesthesiologist is involved in directing two or more concurrent anesthesia procedures, the coefficient for the anesthesiologist is \$15 with a percentage reduction of the Base Units according to the number of CRNAs under his/her personal medical direction. Payment will be computed using the following modifiers and formula:

Modifier AA (Anesthesiologist working along) Base Units + Time Units (1 = 15 minutes) x \$15 = Payment

Modifier AB (Direction of two CRNAs) Base Units - 10% + Time Units (1 = 30 minutes) x \$15 = Payment

Modifier AC (Direction of three CRNAs) Base Units - 25% + Time Units (1 = 30 minutes) x \$15 = Payment

Modifier AD (Direction of four CRNAs) Base Units - 40% + Time Units (1 = 30 minutes) x \$15 = Payment

**IV. CPT-4 Procedure Codes Reimbursed on Flat Fee Basis**

The following CPT-4 procedure codes will continue to be reimbursed on a flat fee basis. Current billing procedures apply.

3600	*36491	62279
*36010	36500	*62282
36405	36600	*62284
*36420	36620	*62289
*36425	*36625	*62290
36430	36640	*62291
*36440	62270	*62292
*36470	62273	
*36471	62274	
*36490	62278	

Under the State Nursing Practice Act, CRNAs do not have the authority to perform the procedures listed above which are marked with an asterisk.

**V. Reimbursement for Maternity Related Anesthesia**

Maternity-related anesthesia will be reimbursed on a flat fee basis at three levels differentiated by who personally administers the anesthesia — the anesthesiologist, the CRNA, or the surgeon/delivery physician. The only exception is general anesthesia for vaginal delivery which will continue to be reimbursed according to base units and time units. The flat fee will be paid in accordance with the CPT-4 procedure code and appropriate modifier for both vaginal and cesarean deliveries.

The surgeon or delivering physician will be reimbursed when he initiates the epidural procedure with inclusion of the appropriate procedure code modifier.

The anesthesiologist or CRNA who is called in to continue administering the anesthesia after the epidural was inserted will be reimbursed for the continued administration of the anesthesia modifier. Anesthesia and operative reports must substantiate the modifier utilized.

Anesthesiologists and/or CRNAs may not bill for both continued administration and general anesthesia.

Interested persons may submit written comments to the following address: John Futrell, Office of the Secretary, Bureau of Health Services Financing, Box 91030, Baton Rouge, LA 70821-9030. He is the person responsible for responding to inquiries regarding this proposed rule.

A public hearing on this proposed rule will be held on

Tuesday, July 28, 1992, in the auditorium, First Floor, Department of Transportation and Development, 1201 Capitol Access Road, Baton Rouge, LA beginning at 9:30 a.m. All interested persons will be afforded an opportunity to submit data, views or arguments, orally or in writing at said hearing.

J. Christopher Pilley  
Secretary

**Fiscal and Economic Impact Statement  
For Administrative Rules**

**Rule Title: Reimbursement Rate Increase for Anesthesia Services**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)  
Implementation of this rule is projected to increase state expenditures by \$679,076 in SFY 1991-92; \$748,678 in SFY 1992-93; and \$771,140 in 1993-94.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)  
Implementation of this rule is projected to increase federal revenue by \$2,113,716 in SFY 1991-92; \$2,146,440 in SFY 1992-93; and \$2,210,841 in SFY 1993-94.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)  
Reimbursement rates to enrolled providers of anesthesiology services will increase by \$2,810,792 in 1991-92; \$2,895,118 in 1992-93; and \$2,981,981 in 1993-94.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)  
This proposed rule will have no known impact on competition or employment.

John Futrell  
Director

David W. Hood  
Senior Fiscal Analyst

**NOTICE OF INTENT**

**Department of Health and Hospitals  
Office of the Secretary  
Bureau of Health Services Financing**

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, proposes to adopt the following rule in the Medical Assistance Program.

Groups of individuals who are eligible for Medicaid reimbursement for services are defined in federal regulations. Coverage for certain groups are mandated, and other groups to whom coverage may be extended are described. Recipients of Aid to Families with Dependent Children (AFDC) administered by the Department of Social Services (DSS), Office of Family Support (OFS), and recipients of Supplemental Security Income (SSI) administered by the Social Security Administration (SSA) are among the groups required to be covered for Medicaid services.

The Department of Health and Hospitals (DHH) is the single state agency responsible for administration of the Medicaid Program in the state. Under the terms of an inter-

agency agreement, Department of Social Services, Office of Family Services (OFS) field staff are authorized to determine eligibility for Medicaid coverage. The eligibility determination examiners of the Medical Assistance Program (MAP) Unit are stationed on-site in state charity hospitals and some public health units to assist patients in making application for Medicaid benefits.

In order to expedite certification for Medicaid coverage, DHH is implementing coverage of individuals described in 42 CFR 435.210 who would be eligible for but are not receiving cash assistance. This eligibility group is described as persons who have been determined to meet all the eligibility criteria for cash assistance under AFDC or SSI, but are not receiving these benefits.

Prior to adoption of this provision, applications for Medicaid eligibility were accepted on-site by MAP unit workers who completed initial phases of the application procedure and forwarded the application to OFS for final determination of eligibility for cash assistance. Under the proposed rule, MAP unit workers complete the application process, determine whether the applicant is eligible for cash assistance, and certify eligibility for Medicaid services. At the time of notification of eligibility for Medicaid, the recipients will be informed of their potential eligibility for cash assistance so that they may make application for those benefits if they so choose. Persons who would have been eligible for Medicaid prior to adoption of this rule will continue to be eligible. Persons who would not have been eligible for Medicaid prior to adoption of this rule will continue to be ineligible. No new eligibles are projected as the result of adoption of this rule.

This rule was adopted under the emergency rulemaking provisions of R.S. 49:953(B) effective February 11, 1991, and published in the *Louisiana Register* on February 20, 1991 (Vol. 17, No. 2); June 20, 1991 (Vol. 17, No. 6); October 20, 1991 (Vol. 17, No. 10); and January 20, 1992 (Vol. 18, No. 1).

**PROPOSED RULE**

Medicaid eligibility is extended to individuals who would be eligible for but are not receiving cash assistance as an Optional Categorically Eligible group. This eligibility group is described as persons who have been determined to meet all the eligibility criteria for cash assistance under AFDC or SSI, but are not receiving these benefits.

Interested persons may submit written comments to the following address: John Futrell, Office of the Secretary, Bureau of Health Services Financing, Box 91030, Baton Rouge, LA 70821-9030. He is the person responsible for responding to inquiries regarding this proposed rule.

A public hearing on this proposed rule will be held on Tuesday, July 28, 1992, in Department of Transportation and Development Auditorium, 1201 Capitol Access Road, Baton Rouge, LA at 9:30 a.m. All interested persons will be afforded an opportunity to submit data, views or arguments, orally or in writing at said hearing.

J. Christopher Pilley  
Secretary

**Fiscal and Economic Impact Statement  
For Administrative Rules  
Rule Title: Medicaid Coverage for AFDC and SSI  
Eligibles Not Receiving Cash Assistance**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

This proposed rule change, which has been in effect since February, 1991, through emergency rulemaking, extends Medicaid eligibility to individuals who would be eligible for but are not receiving cash assistance under AFDC or SSI. The fiscal effect of this proposal is variable and depends on the extent of outreach activities undertaken to identify and process new eligibles. It has been estimated that full implementation of outreach activities could make eligible an additional 165,000-203,000 persons at a total cost of approximately \$100 million (\$26 million state match). This could result either in a net cash inflow or outflow for the state depending on the number of new eligibles who elect to receive treatment from private Medicaid providers, rather than in state facilities.

The Department of Health and Hospitals, however, indicates that outreach activities will not be expanded beyond current levels and that adoption of this proposed rule will not result in a net increase in the number of eligibles above the level prior to the effective date of the emergency rule. According to DHH, the proposed rule simply allows certification for Medicaid followed by application for cash benefits from AFDC or SSI, rather than completion of the entire AFDC or SSI application process followed by Medicaid certification. Therefore, the only fiscal impact resulting from this rule change will be \$100 (50 percent state) in FY 92-93 for manual revisions and policy dissemination.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

Under this rule, federal funding will increase by \$50 during FY 92-93 for the federal match amount associated with implementation costs of this proposal. There are no projected funding increases for FY 93-94 or FY 94-95.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)**

Individuals who make application for Medicaid eligibility in facilities where Medical Assistance Program (MAP) staff are stationed on-site will be affected by this rule. There is no anticipated revenue impact to these applicants resulting from adoption of this rule.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)**

This proposed rule will have no impact on competition or employment.

John Futrell  
Director

David W. Hood  
Senior Fiscal Analyst

**NOTICE OF INTENT**

**Department of Health and Hospitals  
Office of the Secretary  
Bureau of Health Services Financing**

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, proposes to adopt the following rule in the Medical Assistance Program. The rule was published as an emergency rule in the *Louisiana Register* dated January 20, 1992 (Vol. 18, No. 1).

Currently, Medicaid of Louisiana requires replacement of prescriptions when the patient presents the prescription to a pharmacy more than 10 days from the date issued by a physician. Program review indicates that the 10-day prohibition results in increased costs for additional physician services and delays delivery of needed medications for chronic illnesses such as high blood pressure and diabetes. In addition the Board of Pharmacy has published regulations to assure the lawful and appropriate filling of prescriptions. Therefore, to assure provision of mandatory services to patients in nursing facilities, pregnant women, and children as mandated under OBRA '87, and OBRA '89, the limitation on the filling of prescriptions is being modified. Adoption of the rule will assure continued compliance with mandatory federal statutes which require provision of medically necessary medical costs resulting from replacement of prescriptions.

**PROPOSED RULE**

Prescriptions shall be filled within six months of the date prescribed by a physician or other service practitioner covered under Medicaid of Louisiana. Schedule II narcotic analgesics shall be filled within five days of the date prescribed by a physician or other service practitioner covered under Medicaid of Louisiana. Transfer of a prescription from one pharmacy to another is allowed if less than six months have passed, since the date prescribed, and in accordance with the Louisiana Board of Pharmacy requirements.

Interested persons may submit written comments to the following address: John Futrell, Office of the Secretary, Bureau of Health Services Financing, Box 91030, Baton Rouge, LA 70821-9030. He is the person responsible for responding to inquiries regarding this proposed rule.

A public hearing on this proposed rule will be held on Tuesday, July 28, 1992, Department of Transportation and Development Auditorium, 1201 Capitol Access Road, Baton Rouge, LA beginning at 9:30 a.m. All interested persons will be afforded an opportunity to submit data, views or arguments, orally or in writing at said hearing.

Implementation of this rule is subject to approval by the Health Care Financing Administration (HCFA) as required for all Title XIX policy changes. If disapproved by HCFA, the policy prior to this change shall remain in effect.

J. Christopher Pilley  
Secretary

**Fiscal and Economic Impact Statement  
For Administrative Rules  
Rule Title: Filling of Pharmacy Prescriptions**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

There is no estimated implementation cost to the state

for SFY 92-93. There is no expenditure increase or decrease projected for Program services in FY 93-94 and FY 94-95.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)

There is no projected impact on revenues for FY 92-93 and FY 93-94.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)

There is no projected impact on other groups resulting from this rule in FY 92-93, FY 93-94, and FY 94-95.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This proposed rule will have no known impact on competition or employment.

John Futrell  
Director

David W. Hood  
Senior Fiscal Analyst

**NOTICE OF INTENT**

**Department of Health and Hospitals  
Office of the Secretary  
Bureau of Health Services Financing**

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, proposes to adopt the following rule in the Medical Assistance Program. The rule was previously published as an emergency rule in the *Louisiana Register* on December 20, 1991 (Vol. 17, No. 12).

This rule is to increase reimbursement rates of Medicaid non-emergency ambulance transportation services. This rate increase is in recognition of the increases these providers have faced in insurance, labor and other costs of operation over recent years. This rule is necessary to assure compliance with mandatory federal law and regulations which require reimbursement to be reasonable and adequate as well as assure the continued availability of transportation services statewide for non-ambulatory patients.

**PROPOSED RULE**

Rates for Medicaid non-emergency ambulance transportation services are increased from \$2 per mile to \$2.11 per mile. Base rate and transfer fees are increased from \$77.50 to \$81.84.

All current vehicle requirements for ambulance transport shall remain in effect.

Interested persons may submit written comments to the following address: John Futrell, Office of the Secretary, Bureau of Health Services Financing, Box 91030, Baton Rouge, LA 70821-9030. He is the person responsible for responding to inquiries regarding this proposed rule.

A public hearing on this proposed rule will be held on Tuesday, July 28, 1992, in the auditorium, First Floor, Department of Transportation and Development, 1201 Capitol Access Road, Baton Rouge, LA beginning at 9:30 a.m. All interested persons will be afforded an opportunity to submit data, views or arguments, orally or in writing at said hearing.

J. Christopher Pilley  
Secretary

**Fiscal and Economic Impact Statement  
For Administrative Rules  
Rule Title: Reimbursement Rate for Non-Emergency  
Ambulance Transportation**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

Implementation of this rule is projected to increase state expenditures by \$34,434 in SFY 1991-92; \$59,029 in SFY 1992-93; and \$62,689 in 1993-94.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

Implementation of this rule is projected to increase federal revenue by \$104,413 in SFY 1991-92; \$176,470 in SFY 1992-93; and \$187,411 in SFY 1993-94.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)

Reimbursement rates to non-emergency ambulance transportation providers will increase by \$138,847 in 1991-92; \$238,023 in 1992-93; and \$252,780 in 1993-94.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This proposed rule will have no known impact on competition or employment.

John Futrell  
Director

David W. Hood  
Senior Fiscal Analyst

**NOTICE OF INTENT**

**Department of Health and Hospitals  
Office of the Secretary  
Bureau of Health Services Financing**

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, proposes to adopt the following rule in the Medical Assistance Program.

Non-emergency transportation services are provided to Medicaid recipients as a covered service under Title XIX. In order to provide the least expensive means available that is suitable to meet the recipients' needs, the Medical Assistance Program contracted out the provisions of medical transportation services in specified areas. This process was determined to maintain provision of these services at reasonable and adequate reimbursement rates to meet the costs that must be incurred by efficiently and economically operated providers to provide services in conformity with applicable state and federal laws, regulations, and standards for quality and safety. Freedom of choice is allowed except when non-emergency transportation services are provided by a local transit authority or contract provider. In cases where the agency determined more than one least expensive source is available and suitable to meet the recipients' needs, freedom of choice is allowed. When freedom of choice is not exercised by the recipient in such cases, the agency assigns providers by rotation.

Contracts to provide transportation have been operational in the Baton Rouge Region (East Baton Rouge, Ascension, Iberville, West Baton Rouge, Pointe Coupee, West Feliciana, East Feliciana, and Livingston parishes), Terre-

bonne Region (Terrebonne, Lafourche, Assumption, the southern half of St. Martin, and the eastern half of St. Mary parishes), and New Orleans Region (Orleans, St. Bernard, Jefferson, Plaquemines, and St. Charles parishes). The Medical Assistance Program may at its discretion choose not to contract out the provision of medical transportation services in a specified area due to contract proposals which exceed the anticipated cost of providing this service in the absence of the contract. It has been determined that contract proposals for the Baton Rouge and Terrebonne regions exceed the anticipated cost of providing non-emergency medical transportation by an efficiently and economically operated provider to provide services in conformity with applicable state and federal laws, regulations, and quality and safety standards.

Under this rule, non-emergency medical transportation services under Title XIX Freedom of Choice Waiver contracted services provisions shall be available only in the New Orleans Region comprised of Orleans, St. Bernard, Jefferson, Plaquemines, and St. Charles parishes. Non-emergency medical transportation in other areas of the state shall be provided under freedom of choice provisions except when such services can be provided by a local transit authority.

This rule is necessary to allow provision of this service in conformity with 42 CFR 440.170 and 440.230 in the absence of a contractor of services for the affected regions.

#### PROPOSED RULE

Non-emergency medical transportation services under Title XIX Freedom of Choice Waiver contracted services provisions shall be available only in the New Orleans Region comprised of Orleans, St. Bernard, Jefferson, Plaquemines, and St. Charles parishes.

Interested persons may submit written comments to the following address: John Futrell, Office of the Secretary, Bureau of Health Services Financing, Box 91030, Baton Rouge, LA 70821-9030. He is the person responsible for responding to inquiries regarding this proposed rule.

A public hearing on this proposed rule will be held on Tuesday, July 28, 1992, Department of Transportation and Development Auditorium, 1201 Capitol Access Road, Baton Rouge, LA beginning at 9:30 a.m. All interested persons will be afforded an opportunity to submit data, views or arguments, orally or in writing at said hearing.

J. Christopher Pilley  
Secretary

#### Fiscal and Economic Impact Statement For Administrative Rules

##### Rule Title: Transportation Freedom of Choice Waiver Available Only in N.O. Area

#### I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

Loss of the Transportation Freedom of Choice waiver in the Baton Rouge and Terrebonne regions will result in a cost to the state of \$190,246 during FY 92/93, and \$193,410 each for FY 93/94 and FY 94/95 for increased cost of providing transportation services in these areas under Medicaid freedom of choice provisions.

#### II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

Under this rule, federal funding will increase by \$545,432 during FY 92/93 and \$542,268 each for FY 93/94 and FY 94/95 for the federal match amount associated with this proposal.

#### III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)

No additional costs and/or economic benefits are expected to accrue to recipients of non-emergency medical transportation as the result of adoption of this rule. Freedom of choice will result in participation of more Medicaid non-emergency medical transportation providers in the Baton Rouge and Terrebonne regions, and an additional annual reimbursement of \$735,678 to providers in those areas.

#### IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This proposed rule will have no known impact on competition or employment.

John Futrell  
Director

David W. Hood  
Senior Fiscal Analyst

#### NOTICE OF INTENT

##### Department of Health and Hospitals Office of the Secretary Bureau of Health Services Financing

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, proposes to adopt the following rule in the Medical Assistance Program. The rule was previously published as an emergency rule in the *Louisiana Register* on November 20, 1991 (Vol. 17, No. 11) and on March 20, 1992 (Vol. 18, No. 3).

This rule is to increase reimbursement rates for Medicaid providers of non-emergency, non-ambulance transportation services. The rate increase is in recognition of the increases faced by these providers in insurance, labor and other costs of operation over recent years. The rate increase is also designed to reimburse providers for the extra expense of providing services with specialized vehicles for these patients who are non-ambulatory. This rule is necessary to assure compliance with mandatory federal law and regulations which require reimbursement to be reasonable and adequate as well as to assure the continued availability of transportation services statewide for non-ambulatory patients.

#### PROPOSED RULE

All non-emergency, non-ambulance Medicaid providers of ambulatory transportation services are to receive an increase in their mileage rates from \$.50 per mile to \$.55 per mile. Van services will be reimbursed \$.60 per mile when provided in full size vans equipped with wheelchair lifts, stretcher carriers and two-way communication systems. Pick-up fees for non-ambulatory patients transported by full size vans equipped with wheelchair lifts, stretcher carriers and two-way communication systems are as follows: two-way pick-up will be \$20, and one-way pick-up will be \$10. Pick-up fees for second and subsequent non-ambulatory riders will be one half of these rates.

The current pick-up rates will remain the same for ambulatory transportation services. For a provider to receive reimbursement at the van rate, door to door service shall be

provided. Door to door services shall include picking-up and delivering a patient to a specific department within a facility. All current vehicle requirements for vans remain in effect.

Interested persons may submit written comments to the following address: John Futrell, Office of the Secretary, Bureau of Health Services Financing, Box 91030, Baton Rouge, LA 70821-9030. He is the person responsible for responding to inquiries regarding this proposed rule.

A public hearing on this proposed rule will be held on Tuesday, July 28, 1992, in the auditorium, First Floor, Department of Transportation and Development, 1201 Capitol Access Road, Baton Rouge, LA beginning at 9:30 a.m. All interested persons will be afforded an opportunity to submit data, views or arguments, orally or in writing at said hearing.

J. Christopher Pilley  
Secretary

**Fiscal and Economic Impact Statement  
For Administrative Rules**

**Rule Title: Reimbursement Rate for Non-Emergency,  
Non-Ambulance Transportation**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO  
STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

Implementation of this rule is projected to increase state expenditures by \$679,403 in SFY 1991-92; \$1,128,549 in SFY 1992-93; and \$1,198,518 in 1993-94.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF  
STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

Implementation of this rule is projected to increase federal revenue by \$2,060,127 in SFY 1991-92; \$3,235,522 in SFY 1992-93; and \$3,436,124 in SFY 1993-94.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS  
TO DIRECTLY AFFECTED PERSONS OR NON-  
GOVERNMENTAL GROUPS (Summary)**

Reimbursement rates to non-emergency, non-ambulance transportation providers will increase by \$2,739,530 in 1991-92; \$4,364,071 in 1992-93; and \$4,634,643 in 1993-94.

**IV. ESTIMATED EFFECT ON COMPETITION AND EM-  
PLOYMENT (Summary)**

This proposed rule will have no known impact on competition or employment.

John Futrell  
Director

David W. Hood  
Senior Fiscal Analyst

**NOTICE OF INTENT**

**Department of Health and Hospitals  
Office of the Secretary  
Bureau of Health Services Financing**

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, proposes to adopt the following rule in the Medical Assistance Program.

The bureau has amended the Medicaid standards for payment for skilled nursing, intermediate care I and intermediate care II levels of care to assure compliance with the Omnibus Budget Reconciliation Act of 1987, which became

effective October 1, 1990. Emergency rulemaking is necessary to ensure compliance with mandatory federal law.

The emergency rulemaking provisions of the Administrative Procedure Act, R.S. 49:953(B), were exercised effective October 10, 1991, and published in the *Louisiana Register* on October 20, 1991 (Vol. 17, No. 10); and January 20, 1992 (Vol. 18, No. 1).

**PROPOSED RULE**

Nursing homes participating in Medicaid (Title XIX) shall be required to meet the following standards for payment for nursing home services in addition to the standards currently in effect:

1. the ratio of nursing care hours to residents shall be 2:35 on intermediate care level residents;

2. the ratio of nursing care hours to residents shall be 2:60 on skilled level residents;

3. nursing homes with a census of 101 or more shall have a full time assistant director of nursing;

4. the assistant director of nursing shall be a registered nurse unless a written waiver has been approved by the department;

5. nursing homes shall have at least one Patient Activities Coordinator (PAC) per facility. An additional PAC per resident census in excess of 100 shall be required. All PAC employees shall be full time, or sufficient full-time equivalent employees shall be maintained to comply with these standards. Regardless of the number of PAC employees required, one full-time PAC shall be certified;

6. nursing homes shall employ one additional clerical employee.

Interested persons may submit written comments to the following address: John Futrell, Office of the Secretary, Bureau of Health Services Financing, Box 91030, Baton Rouge, LA 70821-9030. He is the person responsible for responding to inquiries regarding this proposed rule.

A public hearing on this proposed rule will be held on Tuesday, July 28, 1992, in the auditorium, First Floor, Department of Transportation and Development, 1201 Capitol Access Road, Baton Rouge, LA beginning at 9:30 a.m. All interested persons will be afforded an opportunity to submit data, views or arguments, orally or in writing at said hearing.

J. Christopher Pilley  
Secretary

**Fiscal and Economic Impact Statement  
For Administrative Rules**

**Rule Title: Nursing Facility Staffing**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO  
STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

Implementation of this provision will result in a cost to the state of \$11,816,012 during FY 92-93, \$12,793,246 during FY 93-94 and \$13,624,807 during FY 94-95 for costs related to additional nurse staffing in 298 affected facilities. Funds for the above expenses have been included in the proposed budget for FY 92-93.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF  
STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

Under this rule, federal funding will increase by \$33,876,130 during FY 92/93, \$35,868,779 during FY 93/94, and \$38,200,250 during FY 94/95 for the federal match amount associated with this proposal.



III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)

There is no anticipated revenue impact to nursing facility patients resulting from adoption of this rule. Nursing facilities will have no net gain or loss as they will be compensated under the proposed rule for the anticipated cost.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This proposed rule will have no known impact on competition or employment.

John Futrell  
Director

David W. Hood  
Senior Fiscal Analyst

**NOTICE OF INTENT**

**Department of Health and Hospitals  
Office of the Secretary  
Bureau of Health Services Financing**

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, proposes to adopt the following rule in the Medical Assistance Program.

Act 991 of 1991 (R.S. 40:2721-2736) authorizes the Department of Health and Hospitals to enact rules regarding the practice of Utilization Review in Louisiana. These rules were compiled at the recommendation of an advisory committee composed of the secretary of the Department of Health and Hospitals, or his designee, and a member appointed by the secretary, the commission of insurance, or his designee, and a member appointed by the commissioner.

The Joint Health and Welfare Committee and the Joint Committee have legislative oversight of the rules promulgated to implement Act 991 of 1991.

The purpose of these rules and regulations is to:

1. promote the delivery of quality health care in a cost effective manner;
2. foster greater coordination between payors, private review agents, and health care providers;
3. protect patients, businesses, and health care providers by ensuring that private review agents are qualified to perform utilization review activities and by permitting informed decisions on the appropriateness of medical care; and
4. ensure that private review agents maintain the confidentiality of medical records in accordance with applicable state and federal law.

Copies of these proposed rules may be obtained from the Office of State Register, 1051 Riverside North, Baton Rouge, LA 70802 and Office of the Secretary, Bureau of Health Services Financing, 1201 Capitol Access Road, Baton Rouge, LA 70821.

A public hearing on this rule will be held on July 28, 1992 in the Department of Transportation and Development Auditorium, Capitol Access Road, Baton Rouge, LA at 9:30 a.m. All interested persons will be afforded an opportunity to submit data, views or arguments, orally or in writing at said hearing.

Interested persons may submit written comments to

the following address: John Futrell, Office of the Secretary, Bureau of Health Services Financing, Box 91030, Baton Rouge, LA 70821-9030. Mr. Futrell is the person responsible for responding to inquiries regarding this proposed rule.

J. Christopher Pilley  
Secretary

**Fiscal and Economic Impact Statement  
For Administrative Rules  
Rule Title: Certification of Utilization Review  
Practitioners**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

Implementation costs are as follows:

Equipment and supplies for two staff	\$13,922.
Travel expenses for RN	780.
Manuals and certificates	100.
Salaries MS 64, & GS 7	64,020.
Total	\$78,770.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

Each Utilization Review Agency will pay a bi-annual fee for certification. The first year this fee is \$500, and each renewal is \$350. There are approximately 160 agencies currently operating which would generate \$80,000 the first year. The field is anticipated to expand to two hundred agencies within three years due to the increasing use of utilization review services by health care payors.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)

Each utilization review agency shall incur the cost of certification (\$500 initially and \$350 bi-annually, thereafter) and the costs of maintaining necessary documentation, which are minimal.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

None is anticipated.

John Futrell  
Director of Health Services  
Financing

David W. Hood  
Senior Fiscal Analyst

**NOTICE OF INTENT**

**Department of Natural Resources  
Office of Conservation**

In accordance with the Administrative Procedure Act, R.S. 49:950 et seq., the Office of Conservation hereby proposes to amend the following regulations regarding Underwater Obstructions.

**Title 43  
NATURAL RESOURCES**

**Part XI. Office of Conservation-Pipeline Division  
Subpart 2. Underwater Obstructions**

**Chapter 3. Underwater Obstructions**

**§301. Definitions**

\* \* \*

*Coastal waters* — bays, lakes, inlets, estuaries, rivers, bayous, and other bodies of water within the boundaries of the coastal zone that have measurable seawater content under normal weather conditions over a period of years.

\* \* \*

*Lessee* — for the purpose of this regulation, the lessee shall be considered the legal owner, lessee, or the operator at the time of abandonment.

\* \* \*

*Pipeline* — for the purpose of site clearance, a pipeline shall be considered any size or type of pipeline (including flowlines).

*Platform* — any structure that has significant facilities supporting exploration or production operations, including but not limited to pumping, injection, compression, transmission, quartering, or primary, secondary or tertiary oil, gas, or water treatment.

\* \* \*

*Single or multi-well caisson or templet* — any structure that has no significant facilities supporting exploration or production operations. Pipes, valves, manifolding, and vent stacks are not considered a significant facility.

\* \* \*

*Territorial Seas* — the belt of the seas measured from the line of ordinary low water along that portion of the coast that is in direct contact with the open sea and the line marking the seaward limit of coastal waters, and extending three miles seaward unless otherwise specified.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 30:4-D through 4-H.

**HISTORICAL NOTE:** Promulgated by the Department of Natural Resources, Office of Conservation, LR 11:702 (July 1985), amended LR 18:

**§311. Abandoned Facilities**

\* \* \*

E. All abandoned well and platform locations on state water bottoms in the Gulf of Mexico and adjacent bays and inlets shall be cleared of all related obstructions by the owner of such facilities. All owners shall comply with the following clearance and verification requirements and procedures:

1. All abandoned well and platform locations shall be cleared of all obstructions present as a result of oil and gas activities unless otherwise approved by the commissioner of conservation. For clearance purposes, the locations shall be defined as:

a. *Exploratory, dry hole, delineation, or other wells that have not been produced for purposes other than production tests* — In open water (territorial seas and coastal waters), the area covered by a 200 foot radius circle centered on the well, depending on site specific conditions. In a canal, bayou, river, or other similarly restricted waterway a maximum linear distance 100 feet upstream and downstream from the location of the well, depending on site specific limitations.

b. *Platforms* — In territorial seas, the area covered by a 800-foot radius circle centered on the platform geometric

center. In coastal waters, the area covered by a 400 foot radius circle centered on the platform geometric center, depending on site specific conditions. In a canal, bayou, river, or other similarly restricted waterway, a maximum linear distance 400 feet upstream and downstream from the location of the well depending on site specific limitations.

c. *Single well caissons and well protectors* — In open water (territorial seas and coastal waters), the area covered by a 200 foot radius circle centered on the well, depending on site specific conditions. In a canal, bayou, river, or other similarly restricted waterway a maximum linear distance 100 feet upstream and downstream from the location of the well depending on site specific limitations.

2. A procedural plan for site clearance verification of platform or structure abandonment (§311.E.1.a or §311.E.1.c) shall be developed by the lessee and submitted to the commissioner of conservation for approval with the permit application for platform or structure removal. For well abandonments, a similar plan shall be submitted to the office of conservation for approval when submitting the application for well abandonment. Vessels used for site clearance verification operations in territorial seas shall be equipped with a navigational positioning system capable of providing position accuracy of  $\pm 30$  feet. The navigational system proposed for use must be identified in the procedural plan. Vessels used for site clearance verification operations in coastal waters are not required to be equipped with a navigational system provided alternate methods for insuring proper positioning during site clearance verification operations are described in the plan submitted for approval. A procedural plan for site clearance verification of platform or structure abandonment shall be developed by the lessee and submitted to the commissioner of conservation for approval with the permit application for platform or structure removal. Each such plan and application shall be accompanied by a filing fee of \$1,000.

a. Sites defined in §311.E.1.b and §311.E.1.c and located in water depths greater than or equal to 3 feet but less than 200 feet shall have their locations trawled over 100 percent of their limits in two directions (i.e., N-S and E-W) in open waters or the length of the location in restricted waters. Sites defined in §311.E.1.a need not be trawled provided approval is obtained from the office of conservation for an alternate method of site clearance verification. If an alternate method is proposed, operational plans must adequately be described in the procedural plan submitted for approval.

i. Trawling contractors performing site clearance verification work shall possess a valid commercial trawling license from one of the states of Louisiana, Texas, Mississippi, Alabama, or Florida, and must have been licensed for a period of not less than two consecutive years immediately prior to performing the work.

ii. The trawling vessel used in verification activities in open water must be equipped with a navigational system and plotter that will produce a real time track plot of the vessel position or capable of producing a hard copy post plot on board the vessel of any or all lines in order to verify that the area has been satisfactorily covered prior to departure of the trawling vessel. The track plot must have a minimum scale of 1"-400' (1:4800).

iii. The trawling vessel must be outfitted with trawling nets with a maximum stretched mesh size of six inches and constructed from up to #18 twine (ribbon strength). These nets shall not be equipped with turtle excluder devices

(TED's). Trawls are to be picked up after a maximum drag time of 30 minutes and all fish, crabs, and shrimp caught in the trawl are to be released. The Eighth Coast Guard District Law Enforcement Branch and the Department of Wildlife and Fisheries Enforcement Section shall be notified of any site clearance verification trawling operations 48 hours prior to commencing such activities. When trawling in areas where pipelines, snags, or shipwrecks are known to exist, the following guidelines should be followed:

NOTE: It is suggested that the operator or the trawling contractor contact the Fishermen's Gear Compensation Fund and U.S. Coast Guard Notice to Mariners to identify any recorded snags within the area to be trawled.

(a). There are no restrictions to be placed on the trawling procedure or pattern for abandoned pipelines. It is the responsibility of the lessee (or operator) performing the site clearance verification activities to contact the former pipeline owner (or operator) and determine whether or not the line will cause an obstruction to unrestricted trawling operations.

(b). In general, trawling should not be conducted closer than 300 feet to any existing pipeline, snag or shipwreck, but this distance may be reduced depending on the conditions existing at a particular site.

(c). Active pipelines which are buried and for which no above grade obstructions (such as valves) exist are to be trawled without any restrictions placed on the trawling procedure or pattern. It is the responsibility of the lessee (or operator) performing the site clearance verification activities to contact the pipeline owner (or operator) and determine the condition of such pipelines within the area to be trawled.

(d). For unburied active pipelines which are eight inches in diameter or larger, and for unburied smaller diameter lines which have obstructions (e.g., valves) present, trawling shall be carried out no closer than 100 feet to either side and in the same direction as (parallel to) the line. Trawling shall not be carried out across the line.

(e). For unburied active pipelines which are smaller than eight inches in diameter and have no obstructions present, trawling is to be carried out in the direction of the line and trawling on top of the line is acceptable. Trawling shall not be carried out across the line.

iv. Trawling grid patterns (track lines) shall be spaced no more than a distance equal to one half the width of the net mouth opening. For example, a vessel trawling with a net with a 40 foot mouth opening must be trawled on a 20 foot or smaller grid pattern.

b. Any modifications to the requirements to trawl the site must be approved by the commissioner of conservation. All man-made objects encountered on the seabed which are known (or suspected) to be present as a result of oil and gas activities shall be removed from the seabed and reported as specified below unless otherwise approved by the commissioner of conservation. Any grid line that is found to have a snag that is not recovered in the trawl must be retrawled after snag recovery operations are completed. In those instances where the trawling effort is interrupted for any reason and then continued again, overlap of areas trawled (or to be trawled) trawling shall be resumed at a location and in a direction to ensure 100 percent coverage of the site clearance area.

c. The lessee shall notify the commissioner of conservation at least 48 hours prior to conducting the clearance survey. All casing and anchor piling shall be cut and re-

moved from not more than 10 feet below the mud line.

d. For areas with more than one facility to be abandoned, overlapping site clearance areas, the operator/owner may submit a site clearance plan to the commissioner of conservation for the composite area that will be completed upon removal of the last facility within the area.

3. Within 90 days of completion of platform or structure removal/abandonment operations, site clearance verification shall be completed as specified in the approved plan unless otherwise approved by the commissioner of conservation. Until site clearance verification procedures have been completed, the location shall be marked as a hazard to navigation in accordance with U.S. Coast Guard regulations unless otherwise approved. Verification letters from the company performing the salvage/clearance work and the trawling contractor shall be submitted with the well clearance or platform removal report and, as appropriate, shall include the following:

a. The date(s) the work was performed and vessel involved.

b. A statement from both the salvager and trawling contractor that no objects were recovered, or general categorical descriptions of the objects that were recovered. The trawler must note the general contents of the nets on each trawling pass. Examples of categories of debris recovered are: pipe; grating; plate; structural shapes; tires; batteries; wire rope; hoses; or other. All material recovered must be disposed of properly.

c. Details and results of any alternate methods of site clearance verification performed, i.e., the diver search pattern and equipment used, or the type of sonar equipment used, including instrument deployment method, frequency, range, and height above the seafloor, and a record of the scans with range and scale noted accompanied by an interpretation of the seabed features shown.

d. Details and results of the trawling operations, i.e., post job plot or map showing (minimum scale 1" = 400') the pattern in which the trawl was pulled, the size and description of the trawl, grid line numbers corresponding to those used in the trawler's report, location center latitude and longitude, the positioning system and calibration method(s) used and any interruptions experienced during the survey;

e. A letter signed by an authorized lessee/operator company representative stating that he/she witnessed the site clearance operations and subsequent verification surveys shall also be submitted with the well clearance report or report of platform or structure removal;

f. All reports, forms, and letters shall be submitted to the office of conservation no later than 60 days following completion of trawling operations.

AUTHORITY NOTE: Promulgated in accordance with RS 30:4-D through J.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 11:702 (July 1985), amended LR 18:

In accordance with the laws of the State of Louisiana, and with reference to the provisions of Title 30 of the Louisiana Revised Statutes of 1950, a public hearing will be held in the Conservation Auditorium, First Floor, State Land and Natural Resources Building, 625 North Fourth St., Baton Rouge, LA at 9 a.m., July 24, 1992. At such hearing the commissioner of conservation will consider evidence relative to the proposed *Site Clearance and Verification Regulations for*

**Abandoned Oil and Gas Structures.**

The proposed regulations represent the views of the commissioner as of this date; however, the commissioner reserves the right to make additions or amendments prior to final adoption.

Comments and views regarding the proposed regulations should be directed in written form to be received not later than 5 p.m., July 23, 1992. Oral comments will be received at the hearing but should be brief and not cover the entire matters contained in the written comments. Direct comments to: H. W. Thompson, Commissioner of Conservation, Box 94275, Baton Rouge, LA 70804-9275, RE: Docket No. PL 92-064.

H. W. Thompson  
Commissioner of Conservation

**Fiscal and Economic Impact Statement  
For Administrative Rules**

**Rule Title: Site Clearance and Verification Requirements**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)  
There will be no increase in 1992-93 fiscal year. Administration of the regulation will be carried out with existing personnel.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)  
The proposed amendments will have no effect on revenue collection.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)  
These rules apply to owners and operators of oil and gas structures propose abandonment. The cost of structure removal is a standard and routine cost of abandonment. The additional cost of verification will be minimal.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)  
There will be additional work for Louisiana trawlers as a result of these rules.

Herbert W. Thompson  
Commissioner

John R. Rombach  
Legislative Fiscal Officer

**NOTICE OF INTENT**

**Department of Social Services  
Office of Community Services**

The Department of Social Services (DSS), Office of Community Services proposes to adopt the following rules and regulations for subsidizing the adoption of children with special needs. Louisiana's Adoption Subsidy Program is provided for in R.S. 46:1790-1792 and P.L. 96-272 (Title IV-E) of the U.S. congress.

This proposed rule will reinstate and update the previously repealed rule in respect to the Adoption Subsidy Program. The agency through error published a rule in the January, 1992, issue of the *Louisiana Register* repealing the initial rule that implemented the Adoption Subsidy Program.

This proposed rule can be viewed in its entirety in the Emergency Rule section of this *Louisiana Register*.

Interested persons may submit written comments within 20 days of the publication of this notice to the following address: Brenda L. Kelley, Assistant Secretary, Box 44367, Baton Rouge, LA 70804. She is the person responsible for responding to inquiries.

Gloria Bryant-Banks  
Secretary

**Fiscal and Economic Impact Statement  
For Administrative Rules  
Rule Title: Adoption Subsidy Program**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)  
The proposed rule updates and reimplements the policy in the Adoption Subsidy Program as it relates to the overall management of the program. There are no implementation costs or savings to the state or local governmental units as this rule will have no impact on the current program or staff.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)  
There are no effects on revenue collections of state or local governmental units.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)  
There are no costs and/or economic benefits to directly affected persons or non-governmental groups.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)  
There is no impact on competition or employment. The changes do not effect the staff composition.

Robert J. Hand  
Division Director

David W. Hood  
Senior Fiscal Analyst

**NOTICE OF INTENT**

**Department of Social Services  
Office of Family Support**

**Project Independence**

The Department of Social Services, Office of Family Support, proposes to amend LAC 67:III.2901.

This rule is mandated by federal regulations as published in the *Federal Register* of Friday, October 13, 1989, Vol. 54, No. 197, pages 42146-42267, and the Louisiana Welfare Reform Act, which require the implementation of the JOBS program for recipients of Aid to Families with Dependent Children (AFDC). Project Independence is administered in accordance with the above-referenced regulations and law, and the Louisiana State Plan for JOBS.

**Title 67  
DEPARTMENT OF SOCIAL SERVICES  
Part III. Office of Family Support**

**Subpart 5. Job Opportunities and Basic Skills Training Program**

**Chapter 29. Organization**

**Subchapter A. Designation and Authority of State Agency**

**§2901. Implementation**

\* \* \*

**A.2. Participation Requirements**

\* \* \*

**c. Final October 1992 Implementation Parishes**

i. Complete implementation of Project Independence is being expanded to include the following parishes: Ascension, Lafourche, Livingston, St. John, St. Landry, St. Martin, St. Tammany, and Tangipahoa. The program will be administered in these additional parishes in the same manner as in the 20 parishes where it is currently operational.

ii. Minimal implementation of Project Independence is being done in the following parishes: Acadia, Allen, Assumption, Avoyelles, Beauregard, Bienville, Caldwell, Cameron, Catahoula, Claiborne, DeSoto, Evangeline, East Carroll, East Feliciana, Iberville, Jackson, Jefferson Davis, LaSalle, Madison, Morehouse, Natchitoches, Plaquemines, Red River, Richland, Sabine, St. Helena, St. James, St. Mary, Tensas, Union, Vermilion, Washington, Webster, West Carroll, West Feliciana, and Winn. A minimal program will include high school or equivalent education, either OJT or Job Search, and information and referral to Employment Services.

**d. Individual Participation Requirements**

\* \* \*

**AUTHORITY NOTE:** Promulgated in accordance with F.R. 54:42146 et seq., 45 CFR 250.11, 45 CFR 250.30, 45 CFR 250.33, and R.S. 460.3(A)(3).

**HISTORICAL NOTE:** Promulgated by the Department of Social Services, Office of Family Support LR 16:626 (July 1990), amended LR 16:1064 (December 1990), LR 17:1227 (December 1991), LR 18:

Interested persons may submit written comments to Howard L. Prejean, Assistant Secretary, Office of Family Support, Box 94065, Baton Rouge, LA 70804-4065. He is the person responsible for responding to inquiries regarding this proposed rule.

A public hearing on the proposed rule will be held on July 27, 1992, in the Second Floor Auditorium, 755 Third Street, Baton Rouge, LA beginning at 9:30 a.m. All interested persons will be afforded an opportunity to submit data, views, or arguments, orally or in writing, at said hearing.

Gloria Bryant-Banks  
Secretary

**Fiscal and Economic Impact Statement  
For Administrative Rules  
Rule Title: Project Independence Final Implementation**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (SUMMARY)**

This rule is for complete implementation of Project Independence to include the following parishes: Ascension,

Lafourche, Livingston, St. John, St. Landry, St. Martin, St. Tammany, and Tangipahoa. The program will be administered in these additional parishes in the same manner as in the 20 parishes where it is currently operated. Minimal implementation of Project Independence is being done in the following parishes: Acadia, Allen, Assumption, Avoyelles, Beauregard, Bienville, Caldwell, Cameron, Catahoula, Claiborne, DeSoto, Evangeline, East Carroll, East Feliciana, Iberville, Jackson, Jefferson Davis, LaSalle, Madison, Morehouse, Natchitoches, Plaquemines, Red River, Richland, Sabine, St. Helena, St. James, St. Mary, Tensas, Union, Vermilion, Washington, Webster, West Carroll, West Feliciana, and Winn. This is estimated to result in an increase in expenditures for employment-related activities and the provision of child care, transportation and other supportive services as follows:

FY	TOTAL	FEDERAL	STATE
92/93	\$8,219,687	\$5,927,440	\$2,292,247
93/94	\$9,462,152	\$6,908,356	\$2,553,796
94/95	\$9,587,743	\$6,999,518	\$2,588,225

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (SUMMARY)**

Federal matching funds from the U.S. Department of Health and Human Services are estimated to be:

\$5,927,440	in FY 92/93
\$6,908,356	in FY 93/94
\$6,999,518	in FY 94/95

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (SUMMARY)**

Project Independence assists recipients of Aid to Families with Dependent Children (AFDC) to become self-sufficient and therefore independent of public assistance. This is accomplished through the provision of education, training, work-related activities, and other related supportive services including child care and transportation. It is estimated that an average of 2,186 participants will be assisted each month in FY 92/93, FY 93/94 and FY 94/95.

**IV. ESTIMATED IMPACT ON COMPETITION AND EMPLOYMENT (SUMMARY)**

There is no effect projected on competition. A long-term effect on employment may be increased opportunities for employment in the fields of training, child care, and transportation services. The program also has the long-range potentials of reducing the state's unemployment rate and creating a more highly skilled workforce.

Howard L. Prejean  
Assistant Secretary

David W. Hood  
Senior Fiscal Analyst

**NOTICE OF INTENT**

**Department of Social Services  
Rehabilitation Services  
Commission for the Deaf**

The Louisiana Commission for the Deaf, mandated by the Regular Legislature of 1990, is authorized to certify sign language interpreters of the deaf and to maintain a registry of sign language interpreters.

Because of the nature of the state mandate, the demands for certified sign language interpreters in all legal settings, mental health areas, and social services areas, as well as the availability of state funds for evaluation and certification for interpreters, the Louisiana Commission for the Deaf sees an imminent peril to public health, safety, or welfare requiring adoption of a rule for the normal process. As a result, the rulemaking process is applicable at this time.

The Louisiana Commission for the Deaf is revising the certification standards for sign language interpreters as published in the *Louisiana Register* in January, 1991. These revisions were printed in full text in the May, 1992, Emergency Rule Section of the *Louisiana Register*.

Interested persons may submit written comments within 30 days of the publication of this notice to the following address: May Nelson, Director, Louisiana Rehabilitation Services, Box 94371, Baton Rouge, LA 70804-9371. She is the person responsible for responding to inquiries.

Gloria Bryant-Banks  
Secretary

**Fiscal and Economic Impact Statement  
For Administrative Rules  
Rule Title: Certification for Interpreters**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)  
There is a total increase in cost of \$15,000 of which \$3,700 is the anticipated implementation cost.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)  
There is no anticipated increase or decrease in revenue.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)  
There is no anticipated impact.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)  
There is no proposed change in competition and employment in the public and private sectors.

May Nelson  
Director

David W. Hood  
Senior Fiscal Analyst

**NOTICE OF INTENT**

**Department of Transportation and Development**

In accordance with the applicable provisions of the Administrative Procedure Act, R.S. 49:950, et seq., notice is hereby given that the Department of Transportation and Development intends to adopt the following rule entitled Recycling of Highway Construction and Maintenance Materials, in accordance with the provisions of R.S. 30:2415.

**Title 70  
DEPARTMENT OF TRANSPORTATION  
AND DEVELOPMENT  
Part III. Office of Highways**

**Chapter 9. Recycling of Highway Construction and Maintenance Material**

**§901. Purpose**

In compliance with the provisions of R.S. 30:2415, the Louisiana Department of Transportation and Development hereby specifies its policy for maximizing the recycling of highway construction and maintenance materials. The department currently purchases all items, except road and bridge materials which are the subject of this rule, through the Office of State Purchasing. Therefore, all items purchased, other than road and bridge materials, are subject to any and all rules on the subject of recycling which have been promulgated by the Office of State Purchasing.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2415.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, LR:

**§903. Tracking**

It shall be the responsibility of the Construction and Maintenance Engineer or his designee to compile an annual report showing the number or amount of materials recycled each year.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2415.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, LR:

**§905. Construction Materials**

**A. Methods of Recycling**

1. Salvage pipe culverts to relay on same project or deliver to maintenance unit for reuse.
2. Salvage treated timber and deliver to maintenance unit for reuse.
3. Salvage steel beams and deliver to maintenance unit for reuse.
4. Reclaim asphalt pavement to use in new mix, blend into base course, use as aggregate surface course on shoulders and ramps or deliver to maintenance unit for reuse.
5. Salvage concrete pavement to use in asphaltic concrete or as riprap.
6. Salvage guardrail and deliver to maintenance unit for reuse.
7. Experiment with use of shredded tires in asphalt concrete.
8. Recycle portland cement/concrete for hot mix and for coarse aggregate in portland cement/concrete for base course and for shoulders. Crush the portland cement/concrete, remove steel to use as coarse aggregate.
9. Buy or specify in contracts recycled calcium sulfate as an alternate for base course, embankment and shoulder materials.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2415.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, LR:

**§907. Maintenance Materials**

**A. Methods of Recycling**

1. Use materials salvaged from construction projects and delivered to maintenance units for reuse.
2. Salvage old signs and strip sheeting from alumi-

num to reuse to make signs.

3. Sell scrap aluminum, steel and copper wire to salvage companies for recycling.

4. Salvage signal parts to refurbish and use over again or sell to salvage companies.

5. Reclaim zylene from stripper cleaning operation.

6. Save used oil and antifreeze for reclaiming. Sell unusable waste oil to highest bidder who is also a disposer certified by Department of Environmental Quality.

7. Recap tires when feasible. Sell used tires to highest bidder who is also a disposer certified by Department of Environmental Quality.

8. Sell batteries to highest bidder who is also a disposer certified by Department of Environmental Quality.

9. Use recycled glass beads for pavement striping.

10. In connection with the disposal of unusable tires and batteries, the Department of Transportation and Development works with Division of Administration toward a plan under which these items are turned in to vendor upon purchase of new tires or batteries on a "one for one" basis.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2415.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, LR:

All interested persons so desiring shall submit oral or written data, views, comments or arguments no later than 30 days from the date of publication of this notice of intent to: Robert Hamilton, Office of Deputy Undersecretary, Department of Transportation and Development, Box 94245, Baton Rouge, LA 70804-9245, 504-379-1261.

Jude W. Patin  
Secretary

### **Fiscal and Economic Impact Statement For Administrative Rules**

#### **Rule Title: Recycling of Highway Construction and Maintenance Materials**

#### **I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

Implementation costs, if any, will be minor. DOTD currently purchases all items, except road and bridge materials, through state purchasing, Division of Administration. Therefore, all of the items purchased through state purchasing would be subject to their rules and regulations. DOTD has been in the process of recycling, recycling disposal and alternative use of materials for years and resultingly the cost to implement these rules will be minimal.

#### **II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

There will be no effect on revenues generated by DOTD.

#### **III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON- GOVERNMENTAL GROUPS (Summary)**

Economic benefits will be derived by persons or entities which participate in recycling these items or in selling recycled materials and products to DOTD. This benefit cannot be measured at this time.

#### **IV. ESTIMATED EFFECT ON COMPETITION AND EM- PLOYMENT (Summary)**

Further implementation of DOTD's current policies and these new regulations should have a continuing positive effect on both employment and competition.

Jude W. Patin  
Secretary

John R. Rombach  
Legislative Fiscal Officer

### **NOTICE OF INTENT**

#### **Department of the Treasury Bond Commission**

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950, et seq., notice is hereby given that the State Bond Commission intends to amend the commission's rules as originally adopted November 20, 1976. The commission proposes to adopt the following rule regarding reporting requirements:

"No later than 70 days after the closing and delivery of bonds by any issuer, said issuer or its representative shall submit to the State Bond Commission a final report with respect to such issue. This final report shall be in a form provided by the office of the State Bond Commission and shall provide information with respect to the final size of the issue, maturities and interest rates, all costs of issuance paid from bond proceeds and/or other sources."

Interested persons may submit their views and opinions through July 10, 1992 to Rae W. Logan, Secretary and Director, State Bond Commission, 21st Floor, State Capitol Building, Box 44154, Baton Rouge, LA 70804.

The commission shall, prior to the adoption of the rule, afford all interested persons reasonable opportunity to submit data, views, or arguments, orally or in writing. Opportunity for oral presentations or arguments shall be granted if requested, by 25 persons, or by a committee of either house of the legislature to which the rule change has been referred, as required under the provisions of Section 968 of Title 49. Such hearing shall be held as provided by law.

At least eight working days prior to the meeting of the commission at which a rule or rules are proposed to be adopted, amended or repealed, notice of any intention to make an oral or written presentation shall be given to the director of the commission. If the presentation is to be oral, such notice shall contain the name or names, telephone numbers, and mailing addresses of the person or persons who will make such oral presentation, who they are representing, the estimated time needed for the presentation, and a brief summary of the presentation. Notice of such oral presentation may be sent to all commission members prior to the meeting. If the presentation is to be written, such notice shall contain the name or names of the persons submitting such written statement, who they are representing, and a copy of the statement itself. Such written statement shall be sent to all commission members prior to the meeting.

The commission shall consider all written and oral submissions concerning the proposed rules. Upon adoption of a rule, the commission if requested to do so by an inter-



ested person either prior to the adoption or within 30 days thereafter, shall issue a concise statement of the principal reasons for or against its adoption.

Mary L. Landrieu  
State Treasurer and Chairperson

report by contacting the Air Quality Compliance Division at (504) 765-0219.

James B. Thompson, III  
Assistant Secretary

**Fiscal and Economic Impact Statement  
For Administrative Rules**

**Rule Title: Reporting Requirement**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)  
There will be no implementation to state or local governmental units.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)  
There will be no effect on revenue collection of state or local governmental units.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)  
The estimated costs and/or economic benefits to directly affected persons or non-governmental groups are unknown.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)  
There will be no effect on competition and employment.

Rae W. Logan  
Director

John R. Rombach  
Legislative Fiscal Officer

# Potpourri

## POTPOURRI

**Department of Environmental Quality  
Air Quality and Radiation Protection**

**Annual Toxics Emissions Report**

The Department of Environmental Quality, Air Quality Compliance Division has published the *Annual Toxics Emissions Report*. This report compares the 1990 toxic air emissions to the 1987 toxic air emissions baseline. The report was prepared in accordance with the requirements of R.S. 30:2060.G. Interested persons may obtain copies of the

## POTPOURRI

**Department of Natural Resources  
Office of the Secretary  
Fishermen's Gear Compensation Fund**

In accordance with the provisions of R.S. 56:700.1 et. seq., notice is given that 18 claims in the amount of \$45,399.97 were received in the month of May 1992, no claims were paid and three claims were denied.

Loran C. coordinates of reported underwater obstructions are:

26475	46976	Cameron
26908	46966	Cameron
27152	46943	Vermilion
27723	46895	Terrebonne
27735	46884	Terrebonne
28838	46807	Plaquemines

A list of claimants, and amounts paid, may be obtained from the Fishermen's Gear Compensation Fund, Box 94396, Baton Rouge, LA 70804, or by telephone (504) 342-0122.

N.J. Damico  
Deputy Secretary

## POTPOURRI

**Department of Social Services  
Office of the Secretary**

The Department of Social Services, Office of the Secretary, announces the implementation of a quality incentive program for child care providers who have achieved certification by the National Association for the Education of Young Children (NAEYC).

A quality incentive will be paid to each child care provider that achieves NAEYC certification. The incentive will be paid once each calendar quarter, and will be equal to a percentage of all payments received by that provider from the certificate portion of the Child Care and Development Block Grant for services provided during the prior calendar quarter. The percentage of Child Care and Development Block Grant payment that is paid as an incentive will be adjusted annually, based on the availability of funds.

Federal regulations governing the Child Care and Development Block Grant state that the purpose of the block grant is "to increase the availability, affordability, and quality of child care services", and stipulate that 6.25 percent of Block Grant funds be used in activities that improve the qual-

ity of child care services. This action is an effort to encourage child care providers to improve the quality of the services they offer.

At the time that the Child Care Assistance Program was implemented, the fiscal impact was reported to be the expenditure of the total allocation of funds received from the federal government (the Child Care and Development Block Grant is 100 percent federally funded). This included the 6.25 percent of funds for quality improvement activities. Therefore, there will be no change in revenues or expenditures by implementing this specific plan for quality improvement.

It is expected that this action will improve the quality of child care services available statewide, since facilities will have an incentive to offer a program of services that meets NAEYC certification standards. It is not possible to anticipate the amount of the incentive any provider will receive, as this will be based on the number of children in care who are Child Care Assistance Program participants, and the dollar amount expended on such children's behalf.

Inquiries regarding the quality incentive may be submitted in writing to: William Ludwig, Deputy Secretary, Department of Social Services, Box 3776, Baton Rouge, LA 70821.

Gloria Bryant-Banks  
Secretary

**CUMULATIVE INDEX**  
**(Volume 18, Number 6)**

1992

<i>Pages</i>	<i>Issue</i>
4— 126 .....	January
129— 218 .....	February
227— 327 .....	March
338 — 463 .....	April
473 — 544 .....	May
553 — 651 .....	June

**AGRICULTURE AND FORESTRY**

**Agricultural and Environmental Sciences, Office of**

- Commercial aerial pesticide, 6ER, 477ER, 622N
- Cotton seed, 624N
- Landscape architect, 240ER
- Pesticides, 247R
- Pink bollworm quarantine, 124P
- Quarantine, 395N, 458P
- Varroa mite quarantine, 124P

**Animal Health Services, Office of  
(Livestock Sanitary Board)**

- Brucella Abortus Antigen, 513N
- Cattle, 199N, 509N, 510N, 510N, 511N, 512N, 514N
- Swine, 514N, 515N, 516N

**Forestry, Office of**

- Public lands, 295N, 597R

**Horticulture Commission**

- Examination, 217P, 218P, 544P
- Retail florist, 249R
- Stumpage values, 6ER

**Secretary, Office of**

- Rule procedures, 144R

**CIVIL SERVICE**

**Civil Service Commission**

- Adverse actions, 624N
- Elected Officials, Board of Ethics for
- Disclosure statement, 83N, 598R
- Public Employees, Commission on Ethics for
- Disclosure statement, 85N, 598R

**ECONOMIC DEVELOPMENT**

**Architectural Examiners, Board of**

- Continuing education, 250R
- Examinations, 87N, 88N, 599R, 599R

**Business Development Services, Office of**

- Regional Economic Development Alliance, 23R

**Commerce and Industry, Office of**

- Environmental tax exemption, 240ER, 296N, 461P
- Finance Division
- Capital companies tax credit, 251R
- Restoration tax abatement 252R

**Economic Development Corporation**

- BIDCO investment program, 89N

**Financial Institutions, Office of**

- Business/industrial development corporations, 24R
- Checks/money orders, 144R
- Licensed lenders, 26R
- Oil/gas auction, 625N
- Stock exchange, 626N

**Racing Commission**

- Appointment qualifications, 367R
- Association's duties, 366R
- Drugged horse, 97N, 138ER, 369R
- Failure to comply, 93N, 136ER
- Field less than nine, 92N, 135ER, 366R
- Horse under investigation, 94N, 136ER, 367R
- Other reports, 136ER, 366R
- Pari-Mutuel Tickets, 92N, 135ER
- Publication of past performances, 94N, 136ER, 366R
- Steward qualifications, 137ER
- Testing split/referee sample, 95N, 137ER, 368R
- Two races on a day, 96N, 138ER, 368R
- Whips size/approval, 97N, 139ER, 369R

**Real Estate Appraisal Subcommittee**

- Adjudicatory proceedings, 144R
- Certification education, 139ER, 599R, 600R

**Real Estate Commission**

- Agency disclosure, 7ER, 26R

**EDUCATION**

**Bureau of Continuing Education**

- Professional Improvement Program (PIP), 301N, 602R

**Elementary and Secondary Education, Board of**

- 8(g) Annual Program, 297N, 600R
- ACT/SAT, 255R
- Adult Education Plan, 344ER, 627N
- Algebra/Geometry curriculum, 27R
- Children First Legislation, 12ER, 28R
- Computer literacy, 240ER, 400N, 555ER
- Disabled infants/toddlers, 98N, 241ER, 370R
- Dyslexic students, 9ER, 401N, 478ER
- Exploratory elective, 200N, 492R
- Food and nutrition, 241ER, 370R
- High school graduation, 27R
- Holiday-presidential election, 27R
- Home study, 255R
- Institute/Regional Management Center, 300N, 602R
- Migrant education, 627N
- Minimum standards, 141ER
- Model Career Options Program (MCOP), 146R, 555ER
- Montessori certification, 98N, 369R
- Postsecondary curriculum, 27R

**CR—Committee Report**

**ER—Emergency Rule**

**L—Legislation**

**P—Potpourri**

**PPM—Policy and Procedure Memorandum**

**EO—Executive Order**

**FA—Fee Action**

**N—Notice of Intent**

**PFA—Proposed Fee Action**

**R—Rule**

Postsecondary salaries, 256R  
 Special education, 12ER, 28R, 300N, 478ER,  
 602R  
 Sign language, 297N, 601R  
 Teacher tuition exemption, 99N, 370R  
 Technical institutes, 566ER  
 Temporary employment permits, 13ER, 29R  
 Textbooks, 479ER, 628N  
 Vocational/Vo-tech  
 Fees, 9ER, 13ER, 27R, 29R, 30R  
 Salaries, 140ER

**Student Financial Assistance, Office of**

Award check stop payment, 301N, 603R  
 Cancelled loan/disbursement, 146R  
 Fee refund, 146R  
 GSL policy manual, 100N, 492R  
 Louisiana Opportunity Loan Program (LA-OP), 100N,  
 370R  
 Mid-year scholarship, 302N, 603R  
 Teacher shortage areas, 147R  
 Tuition assistance, 147R, 302N, 303N, 603R,  
 603R

**EMPLOYMENT AND TRAINING**

**Employment Security, Office of**

Itinerant services, 372R  
 Magnetic media reports, 372R

**Labor, Office of**

JTPA, 102N, 372R, 493R

**Plumbing Board**

Master plumber, 30R

**Worker's Compensation, Office of**

Employee rehabilitation, 147R  
 Utilization review, 257R

**ENVIRONMENTAL QUALITY**

**Air Quality and Radiation Protection, Office of**

Distillation operations (AQ28), 376R  
 Fee system (AQ59), 402N  
 Hydrogen chloride emissions (AQ55), 258R  
 Magnetic tape coating (AQ39), 31R  
 Naturally Occurring Radioactive Material (NORM)  
 (NE04), 304N, 604R  
 Nonmetallic mineral processing (AQ45), 201N, 493R  
 Particulate emissions (AQ43), 262R, 376R  
 Polychlorinated dibenzo-p-dioxins/  
 dibenzofurans (AQ56), 403N  
 Polymer manufacturing (AQ47), 303N, 610R  
 Polymeric coating (AQ41), 150R  
 Radiation fees (NE05), 404N  
 Radiation protection (NE02), 34R  
 Rubber tire manufacturing (AQ46), 205N, 496R  
 Steam generating units (AQ32), 150R  
 Steel plants (AQ44), 106N, 377R  
 Sulfur dioxide (AQ57), 104N, 374R  
 Toxic air emission (AQ50A), 31R  
 VOC emission  
 Industrial surface coating (AQ40), 31R  
 Petroleum refinery wastewater (AQ38), 158R  
 Toxic emissions report, 650P  
 Vapor recovery systems (AQ61), 629N

Wood heaters (AQ42), 110N, 380R  
**Legal Affairs and Enforcement, Office of**  
 Regulatory agenda, 461P

**Secretary Office of**

Reimbursement bonds, 461P  
 Recycling tax credit (OS11), 517N

**Solid and Hazardous Waste, Office of**

Amends certain rules (HW31), 414N  
 Fee amendment petition, 324P  
 Maintenance/monitoring fee (UT03), 415N  
 Permit application (SW04), 416N  
 Permit review (HW35), 418N  
 Reclaim/recycle fees (HW36), 418N  
 Registration exempt tanks (UT04), 421N  
 Waste tires (SW03), 34R, 164R

**Water Resources, Office of**

Pollution control fees (WP11), 424N  
 Review/approval fees (GW03), 423N

**EXECUTIVE ORDERS**

BR 91-23—Allocates \$15,200,000 from the 1991 bond ceiling  
 for the New Orleans Home Mortgage Authority, 4  
 BR 91-24—Directs the Louisiana Housing Finance Agency to  
 administer programs and resources and to  
 promulgate regulations regarding the state's com-  
 prehensive housing affordability strategy (CHAS),  
 4  
 BR 91-25—Reduces appropriations in certain state agencies  
 to avoid a general fund deficit, 5  
 BR 91-26—Allocates excesses to various issuers for carry-  
 forward projects, 131  
 BR 91-27—Transfers functions, duties and responsibilities of  
 the Office of Hospitals (with exceptions) to the  
 Louisiana Health Care Authority governing board  
 and the local boards, 131  
 BR 92-1—Authorizes and outlines duties and responsibilities  
 of the Public Advisory Committee (PAC) with re-  
 spect to environmental issues, 132  
 EWE 92-1—Allocates \$3,546,611 from the 1992 bond ceiling  
 for the Louisiana Public Facilities Authority State-  
 wide Student Loan Program, 134  
 EWE 92-2—Allocates \$20,000,000 from the 1992 bond ceil-  
 ing for Louisiana Power & Light Company (Water-  
 ford) in St. Charles Parish, 134  
 EWE 92-3—Creates the Governor's Advisory Council on  
 Drug-Free Schools and Communities and defines  
 certain duties, 227  
 EWE 92-4—Creates and defines certain personnel and du-  
 ties of the Office of Permits, 227  
 EWE 92-5—Creates a Task Force on African Trade, Finance  
 and Development to market the state's products,  
 goods, services and technologies to Africa, 228

**CR—Committee Report**

**ER—Emergency Rule**

**L—Legislation**

**P—Potpourri**

**PPM—Policy and Procedure Memorandum**

**EO—Executive Order**

**FA—Fee Action**

**N—Notice of Intent**

**PFA—Proposed Fee Action**

**R—Rule**

- EWE 92-6—Creates the Louisiana Interagency Action Council for the Homeless, designating agency representation and defining certain functions, 228
- EWE 92-7—Prohibits sex discrimination by any state agency in employment practices and policies, in providing services, in purchasing services or in awarding service contracts, 229
- EWE 92-8—Authorizes the secretary of the Department of Transportation and Development, with approval of the State Bond Commission, to issue Series 1992 Bonds not to exceed \$46,000,000 to fund Project 1992, 230
- EWE 92-9—Establishes a Land Acquisition Task Force and defines certain responsibilities and duties, 231
- EWE 92-10—Authorizes a substance abuse policy and awareness program applicable to state employees, 231
- EWE 92-11—Establishes an Office of Maritime Advisor and defines certain duties and functions of the office, 232
- EWE 92-12—Appoints the senior advisor in the Office of Maritime Advisor, 232
- EWE 92-13—Establishes the Occupational Information Coordinating Committee (LOICC) and assigns its responsibilities, 233
- EWE 92-14—Authorizes inmate labor to be used to replace roofing at Hunt Correctional Center facilities, 233
- EWE 92-15—Establishes the position of Special Assistant to the Governor for Health Care and Hospitals and defines certain duties and functions of the position, 234
- EWE 92-16—Creates and defines certain duties and functions of the Executive Board on Aging, 234
- EWE 92-17—Creates the Emergency Response Commission and designates certain duties, 235
- EWE 92-18—Rescinds BR 91-25 and directs adjustments of appropriations for expenditures to achieve a balanced budget in the current fiscal year, 236
- EWE 92-19—Allocates \$15,225,000 from the 1992 bond ceiling for various projects, 338
- EWE 92-20—Adjusts appropriations for expenditures to ensure a balanced Transportation Trust Fund budget, 338
- EWE 92-21—Creates the Governor's Military Advisory Commission and designates certain duties, 339
- EWE 92-22—Creates and defines certain functions and goals of the Governor's Task Force on Shrimp Management, 340
- EWE 92-23—Establishes the Governor's Task Force on Maritime Industry and designates certain duties, 340
- EWE 92-24—Establishes the Office of Minority Affairs and assigns certain responsibilities and functions, 341
- EWE 92-25—Directs that the POW/MIA flag be flown throughout the remainder of the governor's term, 342
- EWE 92-26—Continues the operations of the Governor's Community Development Advisory Committee, 342
- EWE 92-27—Establishes individual Joint Committees between Louisiana and Quebec, Maritime Provinces and Belgium for cultural and commercial exchanges, 343
- EWE 92-28—Directs the Department of Transportation and Development to promulgate emergency rules requiring set-aside or preference programs for Blacks and women on all construction programs, 473
- EWE 92-29—Provides for preferred purchase of products and services from state supported workshops for persons with severe disabilities in conjunction with the Louisiana State Use Program, 474
- EWE 92-30—Establishes an Advisory Task Force on Environmental Quality and designates certain responsibilities, 474
- EWE 92-31—Expands the Land Acquisition Task Force to include the State Forester, 475
- EWE 92-32—Amends and supplements Executive Orders EWE 92-9 and EWE 92-31 regarding a Land Acquisition Task Force, 475
- EWE 92-33—Amends Executive Order EWE 92-6 to add four members-at-large to the Louisiana Interagency Action Council, 476
- EWE 92-34—Allocates \$10,000,000 from the 1992 bond ceiling for Calcasieu Parish's Public Trust Authority for the Mortgage Credit Certificate Program, 476
- EWE 92-35—Amends Executive Order EWE 92-30 to add three members-at-large to the Advisory Task Force on Environmental Quality, 477
- EWE 92-36—Amends EWE 92-5 to add members to the Task Force on African Trade, 553
- EWE 92-37—Establishes Governor's Advisory Council on Disability Affairs and defines membership and certain duties, 553
- EWE 92-38—Establishes the Inter-Agency Transportation Coordination Committee and defines membership and certain duties, 554
- EWE 92-39—Authorizes the Cash Management Review Board to prepare an interim agreement pertaining to exchange of federal and state funds, 554

## GOVERNOR'S OFFICE

### Division of Administration

- Commissioner's Office
- Medical Review Panel
  - Change of address, 51R
- Louisiana Property Assistance Agency
  - Inventory property, 430N
- Office of Telecommunications Management
  - Non-state entity, 610R

### Elderly Affairs, Office of

- Area agency on aging, 305N, 610R
- Long-term care ombudsman, 267R
- Multipurpose senior center, 431N
- State ombudsman, 265R

**CR—Committee Report**

**ER—Emergency Rule**

**L—Legislation**

**P—Potpourri**

**PPM—Policy and Procedure Memorandum**

**EO—Executive Order**

**FA—Fee Action**

**N—Notice of Intent**

**PFA—Proposed Fee Action**

**R—Rule**

**Law Enforcement and Administration of  
Criminal Justice**

Felony sentencing, 44R, 164R, 480ER, 566ER,  
631N

Louisiana Property Assistance Agency  
Inventoried property, 632N

**Patient's Compensation Fund Oversight Board**

Enrollment, 167R  
Self-insurance, 433N

**Veterans Affairs, Department of**

War veterans' home, 269R

**Women's Services, Office of**

Marriage license fees, 462P

**HEALTH AND HOSPITALS**

**Dentistry, Board of**

Dental hygienists, 307N, 611R  
Dental specialist, 308N, 612R  
Display of license, 310N, 614R  
Fees/costs, 311N, 615R  
Hepatitis B Virus/HIV, 312N, 615R

**Dietetics and Nutrition, Board of  
Examiners in**

Licensure, 633N

**Embalmers and Funeral Directors, Board of**

Examination, 462P

**Hospitals, Office of**

LHCA service agreement, 14ER, 111N

**Human Services, Office of**

Case management certification, 434N  
Substance abuser group home, 519N

**Management and Finance, Office of**

HIV health care, 125P, 520N, 529N, 569ER  
Rural hospital, 54R, 181R

**Medical Examiners, Board of**

Hepatitis/HIV procedures, 207N, 325P  
Obesity medication, 205N, 325P

**Nursing Home Administrators, Board of Examiners of**

Administrator license, 181R, 507R

**Pharmacy, Board of**

Continuing education, 273R

**Physical Therapy Examiners, Board of**

Licensure, fees, 634N

**Practical Nurse Examiners**

Education licensure, 635N

**Professional Counselors, Board of Examiners of**

License/practice, 51R  
Mental health counseling, 269R

**Psychologists, Board of Examiners of**

Testing, evaluation, assessment, 633N

**Public Health, Office of**

HIV/AIDS, 182R  
Sanitary Code  
General provisions, 114N, 386R  
Mechanical wastewater, 115N, 442N  
Plumbing, 314N, 618R  
Sewage disposal, 115N, 387R  
Water supplies, 116N, 387R, 618R  
Tanning facilities, 274R

**Secretary, Office of**

ADMS Block Grant, 531N  
AFDC/SSI eligibles, 18ER, 572ER, 638N

Alimony/child support income, 54R  
Anesthesia services, 19ER, 636N  
Case management, 570ER, 636N  
Community/family support system, 185R  
Computer matching programs, 391R  
Concurrent care, 54R  
Disproportionate share, 16ER, 363ER  
Federally-qualified health center, 16ER, 571ER  
Home health agencies, 57R  
Infant, developmentally delayed, 210N  
Infant inpatient, 572ER  
LHCA service agreement, 14ER, 111N  
LaSalle Parish nursing facility, 218P  
Maternal and Child Health Block Grant, 531N  
Medical transportation, 640N  
Non-ambulance reimbursement, 243ER  
Non-emergency ambulance, 571ER, 640N, 641N  
Non-emergency transportation, 573ER  
Nursing facility, 189R  
Nursing home, 18ER, 573ER, 642N  
OBRA (1990), 19ER  
Outpatient pharmacy, 364ER, 364ER  
Pharmacy service, 57R, 639N  
Prescription limitation, 17ER  
Preventive Health and Health Services  
Block Grant, 531N  
Rural care/hospital, 20ER  
Traumatic brain injury, 21ER  
Urine drug screening, 188R  
Utilization review, 643N  
Vendor payments, 391R

**Veterinary Medicine, Board of**

Fees, 111N, 380R  
License, 482ER

**Wholesale Drug Distributors, Board of**

Operating rules, 381R

**INSURANCE**

**Commissioner of Insurance**

Holding company (Reg 31), 274R  
Information transmittal (Rule 12), 316N, 620R  
Insolvency disclaimer (Reg 40), 215N, 620R  
Insolvency protection (Reg 39), 213N, 619R

**LOUISIANA ADMINISTRATIVE CODE UPDATE**

**Administrative Code Update**

Cumulative, January 1991 - December, 1991, 121  
Cumulative, January 1992 - March, 1992, 458

**NATURAL RESOURCES**

**Conservation, Office of**

Compressed natural gas, 60R  
Drug testing, 442N

**CR—Committee Report**

**ER—Emergency Rule**

**L—Legislation**

**P—Potpourri**

**PPM—Policy and Procedure Memorandum**

**EO—Executive Order**

**FA—Fee Action**

**N—Notice of Intent**

**PFA—Proposed Fee Action**

**R—Rule**

Emergency Natural Gas Allocation Plan, 64R  
Hazardous liquids transport, 444N  
Pipeline safety, 443N  
Underwater obstructions, 643N

**Mineral Resources, Office of**

Geophysical/geological surveys, 70R

**Secretary, Office of**

Coastal restoration, 281R  
Fishermen's Gear  
Claims, 125P, 218P, 325P, 463P, 544P, 650P  
Fees, 117N, 391R

**PORT COMMISSIONS**

**Port of New Orleans**

Associated Branch Pilots, Board of Examiners of  
Conduct/safety, 72R  
Associated Branch Pilots, Board of Review of  
Complaint procedures, 76R

**PUBLIC SAFETY AND CORRECTIONS**

**Corrections Services**

Death penalty, 77R

**Fire Marshal, Office of**

Uniform construction code, 21ER

**Liquified Petroleum Gas Commission**

Gas conversion, 486ER, 532N

**Pardons, Board of**

Clemency, 483ER

**Private Security Examiners, Board of**

Contract security, 189R

Training, 449N

**State Police, Office of**

Bingo, Keno, raffle, 283R  
Hazardous materials transport, 78R, 450N  
Video draw poker, 196R

**PUBLIC SERVICE**

**Public Service Commission**

Classified employees, 216N

**REVENUE AND TAXATION**

**Sales Tax Division**

Pollution control, 532N  
Sales/use tax, 287R

**Severance Tax Division**

Natural gas, 463P

**Tax Commission**

Ad valorem, 197R  
Orleans Parish appraisal/assessment, 125P  
Stumpage values, 6ER

**SOCIAL SERVICES**

**Community Services, Office of**

Adoption, 141ER, 198R, 451N, 487ER  
Adoption subsidy, 574ER, 646N  
Block Grant Program, 451N  
Child abuse/neglect, 79R  
Child protection, 198R, 316N  
Emergency shelter, 326P  
Repeal of rules, 79R

Social Services Block Grant (SSBG), 463P  
State Voluntary Registry, 22ER  
Vendor day care, 364ER, 534N  
Weatherization Assistance Program, 126P

**Family Support, Office of**

Food stamps, 22ER, 142ER, 245ER, 394R  
JOBS

Aid to Families with Dependent Children (AFDC),  
244ER, 536N

Participation requirements, 80R

Project Independence, 244ER, 453N, 537N, 646N

Lottery winnings, 118N, 507R

Paternity blood tests, 538N

Refugee assistance, 22ER, 394R

**Rehabilitation Services, Office of**

Examination, 218P

Sign language, 488ER, 647N

**Secretary, Office of**

Child Care and Development Block Grant, 288R

Community/family support system, 185R

Daycare centers, 538N

Title IV-A At-Risk Child Care, 288R

**Secretary, Office of**

Child care providers, 650P

**STATE**

**Uniform Commercial Code, Office of**

Secured transactions, 118N, 392R

**TRANSPORTATION AND DEVELOPMENT**

**Highways, Office of**

Recycling highway material, 648N

**Sabine River Compact Administration**

Meeting, 544P

**Secretary, Office of**

Oversize permit, 216N, 508R

Railroad traffic speed, 319N

**TREASURY**

**Bond Commission**

Issuer, reporting, 649N

**Deferred Compensation Commission**

Restated plan, 323N

**State Employees Group Benefits Program,**

**Board of Trustees of the**

Participant employer, 246ER

Plan document, 575ER

Retirees/dependents surcharge, 454N

**State Employees' Retirement System, Board**

**of Trustees of the**

Deferred Retirement Option Plan (DROP), 81R

*CR—Committee Report*

*ER—Emergency Rule*

*L—Legislation*

*P—Potpourri*

*PPM—Policy and Procedure Memorandum*

*EO—Executive Order*

*FA—Fee Action*

*N—Notice of Intent*

*PFA—Proposed Fee Action*

*R—Rule*



Trustees, 81R  
**Teachers' Retirement System, Board of  
Trustees of the**  
Deferred Retirement Option Plan (DROP), 321N, 621R

**WILDLIFE AND FISHERIES**

**Fisheries, Office of**

King Mackerel, 596ER  
Red Snapper, 596ER

**Wildlife, Office of**

Threatened/endangered species, 455N

**Wildlife and Fisheries Commission**

Alligator, 491ER  
Commercial fisherman  
Sales card, 81R  
Sales report, 82R, 198R  
Crab trap, 199R  
Fish/wildlife values, 290R  
Game Breeder's license, 455N  
Gill/trammel net, 294R  
King Mackerel, 143ER  
Lake Bruin, 294R  
Mayhaw fruit, 290R  
Mullet, 143ER, 596ER  
Oyster season, 366ER  
Paddlefish, 543N  
Records confidentiality, 82R  
Resident game, 323N  
Seed oysters, 23ER  
Seismic exploration, 508R  
Shrimp season  
Chandeleur Sound, 246ER  
Spring inshore, 491ER  
Spotted Seatrout, 199R, 217CR  
Wild birds, 542N

**CR—Committee Report**

**ER—Emergency Rule**

**L—Legislation**

**P—Potpourri**

**PPM—Policy and Procedure Memorandum**

**EO—Executive Order**

**FA—Fee Action**

**N—Notice of Intent**

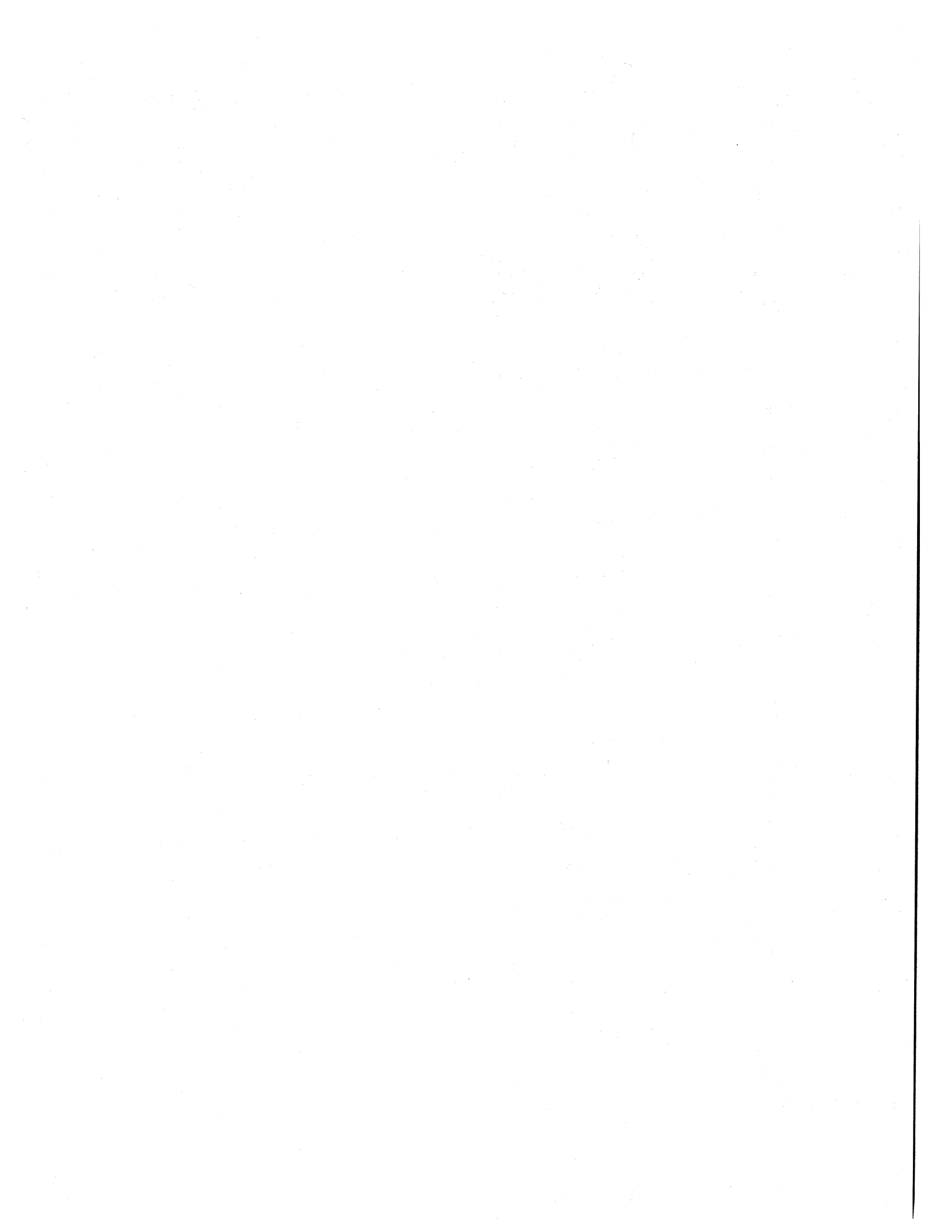
**PFA—Proposed Fee Action**

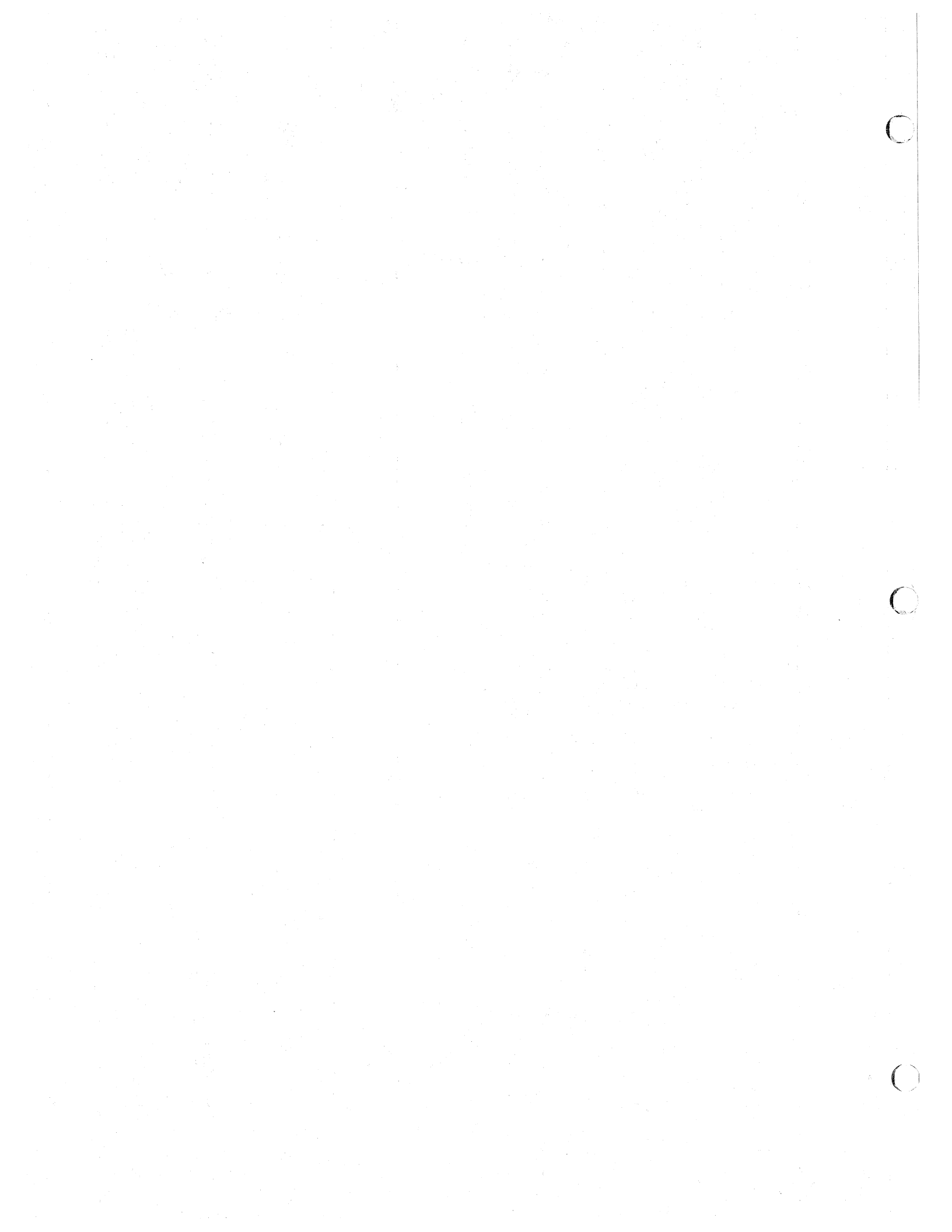
**R—Rule**

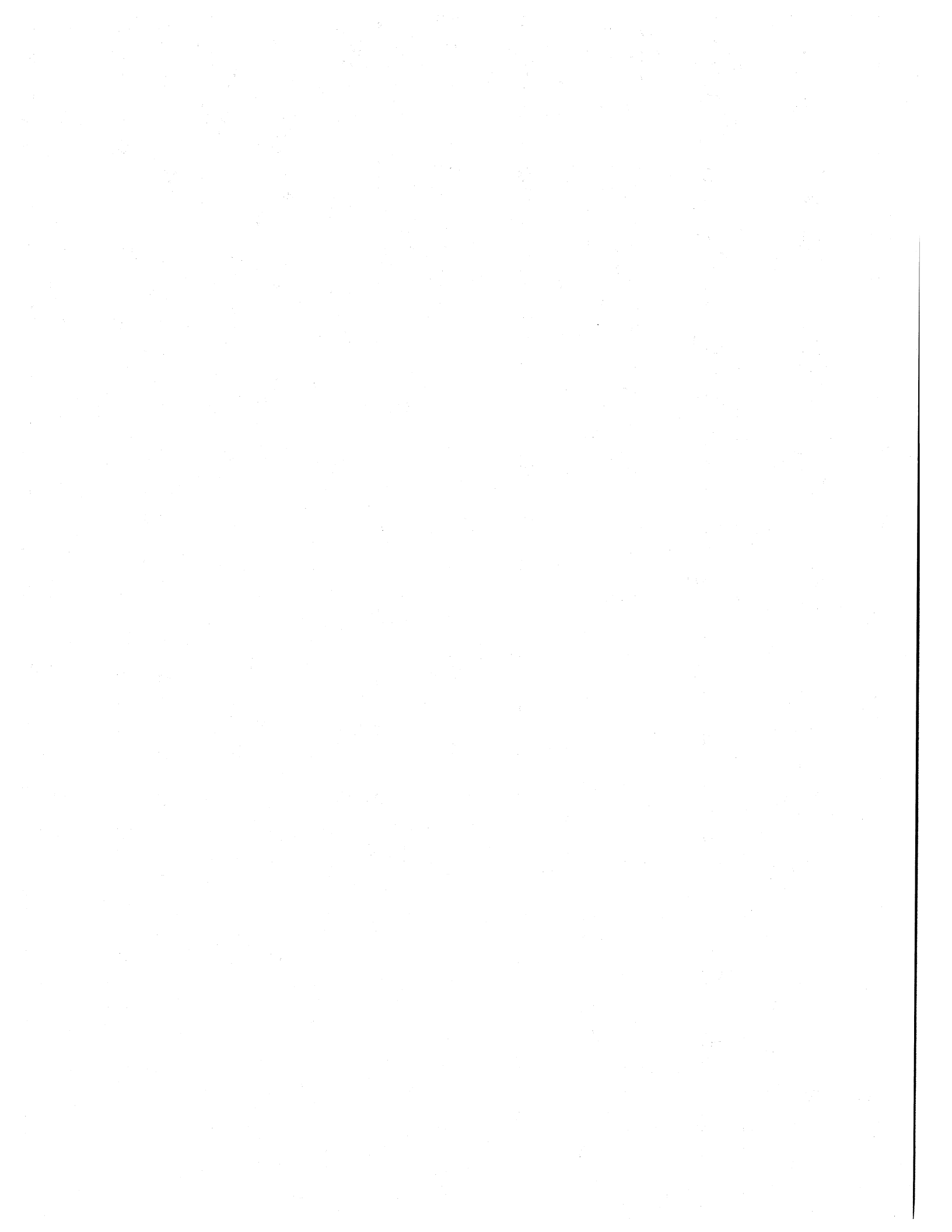
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